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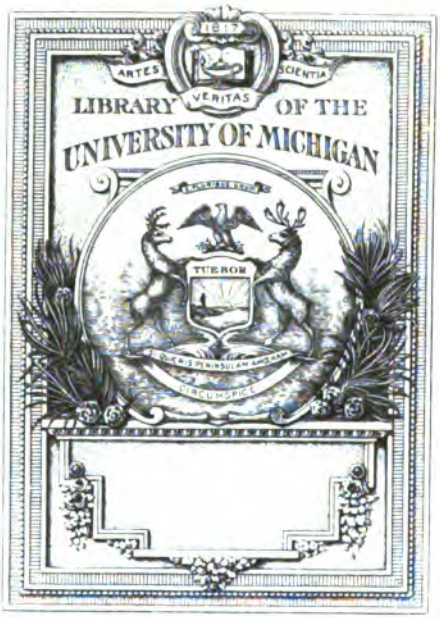


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# LORD BACON'S WORKS,

## VOLUME THE SIXTH.

CONTAINING

SPEECHES. CHARGES.

PAPERS RELATING TO THE EARL OF ESSEX.

ADVICE TO SIR GEO. VILLIERS.

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*The Monument of Lord Bacon.*
*in St. Michaels Church.*

*Drawn & Engraved by W. H. Worthington.*

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20 — 151

# THE WORKS

OF

# FRANCIS BACON,

Lord Chancellor of England.

A NEW EDITION:

BY

BASIL MONTAGU, ESQ.

VOL. VI.

LONDON:
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MDCCCXXVI.

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# SPEECHES.



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# A SPEECH

MADE BY

# SIR FRANCIS BACON, KNIGHT,

CHOSEN BY THE COMMONS TO PRESENT

A PETITION TOUCHING PURVEYORS.

DELIVERED TO HIS MAJESTY IN THE WITHDRAWING-CHAMBER AT WHITEHALL,

In the Parliament held Primo et Secundo JACOBI, the First Session.

---

IT is well known to your majesty, excellent king, that the emperors of Rome, for their better glory and ornament, did use in their titles the additions of the countries and nations where they had obtained victories; as "Germanicus, Britannicus," and the like. But after all those names, as in the higher place, followed the name of "Pater Patriæ," as the greatest name of all human honour immediately proceeding that name of Augustus; whereby they took themselves to express some affinity that they had, in respect of their office, with divine honour. Your majesty might, with good reason, assume to yourself many of those other names; as "Germanicus, Saxonicus, Britannicus, Francicus, Danicus, "Gothicus," and others, as appertaining to you not by bloodshed, as they bare them, but by blood; your

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majesty's royal person being a noble confluence of streams and veins wherein the royal blood of many kingdoms of Europe are met and united. But no name is more worthy of you, nor may more truly be ascribed unto you, than that name of father of your people, which you bear and express not in the formality of your stile, but in the real course of your government. We ought not to say unto you as was said to Julius Cæsar, "Quæ miremur, habe-"mus; quæ laudemus, expectamus:" that we have already wherefore to admire you, and that now we expect somewhat for which to commend you; for we may, without suspicion of flattery, acknowledge, that we have found in your majesty great cause, both of admiration and commendation. For great is the admiration, wherewith you have possessed us since this parliament began in those two causes wherein we have had access unto you, and heard your voice, that of the return of Sir Francis Goodwin, and that of the union; whereby it seemeth unto us, the one of these being so subtle a question of law; and the other so high a cause of estate, that as the Scripture saith of the wisest king, "that his heart was as the sands of the sea;" which though it be one of the largest and vastest bodies, yet it consisteth of the smallest motes and portions; so, I say, it appeareth unto us in these two examples, that God hath given your majesty a rare sufficiency, both to compass and fathom the greatest matters, and to discern the least. And for matter of praise and commendation, which chiefly belongeth to goodness,

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we cannot but with great thankfulness profess, that your majesty, within the circle of one year of your reign, "infra orbem anni vertentis," hath endeavoured to unite your Church, which was divided; to supply your nobility, which was diminished; and to ease your people in cases where they were burdened and oppressed.

In the last of these your high merits, that is, the ease and comfort of your people, doth fall out to be comprehended the message which I now bring unto your majesty, concerning the great grievance arising by the manifold abuses of purveyors, differing in some degree from most of the things wherein we deal and consult; for it is true, that the knights, citizens, and burgesses, in parliament assembled, are a representative body of your Commons and third estate; and in many matters, although we apply ourselves to perform the trust of those that chose us, yet it may be, we do speak much out of our own senses and discourses. But in this grievance, being of that nature whereunto the poor people is most exposed, and men of quality less, we shall most humbly desire your majesty to conceive, that your majesty doth not hear our opinions or senses, but the very groans and complaints themselves of your Commons more truly and vively, than by representation. For there is no grievance in your kingdom so general, so continual, so sensible, and so bitter unto the common subject, as this whereof we now speak; wherein it may please your majesty to vouchsafe me leave, first, to set forth unto you the dutiful

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and respective carriage of our proceeding; next, the substance of our petition; and thirdly, some reasons and motives which in all humbleness we do offer to your majesty's royal consideration or commiseration; we assuring ourselves that never king reigned that had better notions of head, and motions of heart, for the good and comfort of his loving subjects.

For the first: in the course of remedy which we desire, we pretend not, nor intend not, in any sort, to derogate from your majesty's prerogative, nor to touch, diminish, or question any of your majesty's regalities or rights. For we seek nothing but the reformation of abuses, and the execution of former laws whereunto we are born. And although it be no strange thing in parliament for new abuses to have new remedies, yet nevertheless in these abuses, which if not in nature, yet in extremity and height of them, are most of them new, we content ourselves with the old laws: only we desire a confirmation and quickening of them in their execution; so far are we from any humour of innovation or encroachment.

As to the court of the green-cloth, ordained for the provision of your majesty's most honourable household, we hold it ancient, we hold it reverend. Other counts respect your politic person, but that respects your natural person. But yet, notwithstanding, most excellent king, to use that freedom which to subjects that pour out their griefs before so gracious a king, is allowable, we may very well

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allege unto your majesty, a comparison or similitude used by one of the fathers* in another matter, and not unfitly representing our case in this point: and it is of the leaves and roots of nettles; the leaves are venomous and stinging where they touch; the root is not so, but is without venom or malignity; and yet it is that root that bears and supports all the leaves. This needs no farther application.

To come now to the substance of our petition. It is no other, than by the benefit of your majesty's laws to be relieved of the abuses of purveyors; which abuses do naturally divide themselves into three sorts: the first, they take in kind that they ought not to take; the second, they take in quantity a far greater proportion than cometh to your majesty's use; the third, they take in an unlawful manner, in a manner, I say, directly and expressly prohibited by divers laws.

For the first of these, I am a little to alter their name; for instead of takers, they become taxers; instead of taking provision for your majesty's service, they tax your people "ad redimendam vexationem:" imposing upon them, and extorting from them, divers sums of money, sometimes in gross, sometimes in the nature of stipends annually paid, "ne noceant," to be freed and eased of their oppression. Again, they take trees, which by law they cannot do; timber-trees, which are the beauty, countenance, and shelter of men's houses; that men have long spared from their own purse and profit; that men

* St. Augustine.

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esteem, for their use and delight, above ten times the value; that are a loss which men cannot repair or recover. These do they take, to the defacing and spoiling of your subjects mansions and dwellings, except they may be compounded with to their own appetites. And if a gentleman be too hard for them while he is at home, they will watch their time when there is but a bailiff or a servant remaining, and put the ax to the root of the tree, ere ever the master can stop it. Again, they use a strange and most unjust exaction, in causing the subjects to pay poundage of their own debts, due from your majesty unto them; so as a poor man, when he hath had his hay, or his wood, or his poultry, which perchance he was full loth to part with, and had for the provision of his own family, and not to put to sale, taken from him, and that not at a just price, but under the value, and cometh to receive his money, he shall have after the rate of twelve pence in the pound abated for poundage of his due payment, upon so hard conditions. Nay farther, they are grown to that extremity, as is affirmed, though it be scarce credible, save that in such persons all things are credible, that they will take double poundage, once when the debenture is made, and again the second time when the money is paid.

For the second point, most gracious sovereign, touching the quantity which they take, far above that which is answered to your majesty's use: they are the only multipliers in the world; they have the

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art of multiplication. For it is affirmed unto me by divers gentlemen of good report, and experience in these causes, as a matter which I may safely avouch before your majesty, to whom we owe all truth, as well of information as subjection, that there is no pound profit which redoundeth to your majesty in this course, but induceth and begetteth three pound damage upon your subjects, besides the discontentment. And to the end they may make their spoil more securely, what do they? Whereas divers statutes do strictly provide, that whatsoever they take, shall be registered and attested, to the end, that by making a collation of that which is taken from the country, and that which is answered above, their deceits might appear; they, to the end to obscure their deceits, utterly omit the observation of this, which the law prescribeth.

And therefore to descend, if it may please your majesty, to the third sort of abuse, which is of the unlawful manner of their taking, whereof this omission is a branch; and it is so manifold, as it rather asketh an enumeration of some of the particulars, than a prosecution of all. For their price: by law they ought to take as they can agree with the subject; by abuse they take at an imposed and enforced price: by law they ought to make but one apprisement by neighbours in the country; by abuse they make a second apprisement at the court-gate; and when the subject's cattle come up many miles lean, and out of plight, by reason of their great travel, then they prize them anew at an abated price: by

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law they ought to take between sun and sun; by abuse they take by twilight, and in the night-time, a time well chosen for malefactors: by law they ought not to take in the highways, a place by your majesty's high prerogative protected, and by statute by special words excepted, by abuse they take in the ways, in contempt of your majesty's prerogative and laws: by law they ought to shew their commission, and the form of commission is by law set down; the commissions they bring down, are against the law, and because they know so much, they will not shew them. A number of other particulars there are, whereof as I have given your majesty a taste, so the chief of them upon deliberate advice are set down in writing by the labour of some committees, and approbation of the whole house, more particularly and lively than I can express them, myself having them at the second hand by reason of my abode above. But this writing is a collection of theirs who dwell amongst the abuses of these offenders, and the complaints of the people; and therefore must needs have a more perfect understanding of all the circumstances of them.

It remaineth only that I use a few words, the rather to move your majesty in this cause: a few words, I say a very few; for neither need so great enormities any aggravating, neither needeth so great grace, as useth of itself to flow from your majesty's princely goodness, any artificial persuading. There be two things only which I think good to set before your majesty; the one the example of your most

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noble progenitors kings of this realm, who from the first king that endowed this kingdom with the great charters of their liberties, until the last, all save one, who as he was singular in many excellent things, so I would he had not been alone in this, have ordained, every one of them in their several reigns, some laws or law against this kind of offenders; and especially the example of one of them, that king, who for his greatness, wisdom, glory, and union of several kingdoms, resembleth your majesty most, both in virtue and fortune, King Edward III. who, in his time only, made ten several laws against this mischief. The second is the example of God himself; who hath said and pronounced, "That he will not hold him guiltless "that taketh his name in vain." For all these great misdemeanors are committed in and under your majesty's name: and therefore we hope your majesty will hold them twice guilty that commit these offences; once for the oppressing of the people, and once more for doing it under the colour and abuse of your majesty's most dreaded and beloved name. So then I will conclude with the saying of Pindarus, "Optima res aqua;" not for the excellency, but for the common use of it; and so contrariwise the matter of abuse of purveyance, if it be not the most heinous abuse, yet certainly it is the most common and general abuse of all others in this kingdom.

It resteth, that, according to the command laid upon me, I do in all humbleness present this writing

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to your majesty's royal hands, with most humble petition on the behalf of the Commons, that as your majesty hath been pleased to vouchsafe your gracious audience to hear me speak, so you would be pleased to enlarge your patience to hear this writing read, which is more material.

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# A SPEECH

DELIVERED BY THE KING'S ATTORNEY,

# SIR FRANCIS BACON,

## IN THE LOWER HOUSE,

WHEN THE HOUSE WAS IN GREAT HEAT, AND MUCH TROUBLED ABOUT

## THE UNDERTAKERS;

WHICH WERE THOUGHT TO BE SOME ABLE AND FORWARD GENTLEMEN; WHO, TO INGRATIATE THEMSELVES WITH THE KING, WERE SAID TO HAVE UNDERTAKEN, THAT THE KING'S BUSINESS SHOULD PASS IN THAT HOUSE AS HIS MAJESTY COULD WISH.

[In the Parliament 12 JACOBI.]

---

MR. SPEAKER,

I HAVE been hitherto silent in this matter of undertaking, wherein, as I perceive, the house is much enwrapped.

First, because, to be plain with you, I did not well understand what it meant, or what it was; and I do not love to offer at that, that I do not throughly conceive. That private men should undertake for the commons of England! why, a man might as well undertake for the four elements. It is a thing so giddy, and so vast, as cannot enter into the brain of a sober man: and especially in a new parliament; when it was impossible to know who should be of the parliament: and when all men, that know never so little the constitution of this house, do know it to be so open to reason, as men do not know when they

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enter into these doors what mind themselves will be of, until they hear things argued and debated. Much less can any man make a policy of assurance, what ship shall come safe home into the harbour in these seas. I had heard of undertakings in several kinds. There were undertakers for the plantations of Derry and Colerane in Ireland, the better to command and bridle those parts. There were, not long ago, some undertakers for the north-west passage: and now there are some undertakers for the project of dyed and dressed cloths; and, in short, every novelty useth to be strengthened and made good by a kind of undertaking; but for the ancient parliament of England, which moves in a certain manner and sphere, to be undertaken, it passes my reach to conceive what it should be. Must we be all dyed and dressed, and no pure whites amongst us? Or must there be a new passage found for the king's business by a point of the compass that was never sailed by before? Or must there be some forts built in this house that may command and contain the rest? Mr. Speaker, I know but two forts in this house which the king ever hath; the fort of affection, and the fort of reason: the one commands the hearts, and the other commands the heads; and others I know none. I think Æsop was a wise man that described the nature of the fly that sat upon the spoke of the chariot wheel, and said to herself, "What a dust do I raise?" So, for my part, I think that all this dust is raised by light rumours and buzzes, and not upon any solid ground.

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The second reason that made me silent was, because this suspicion and rumour of undertaking settles upon no person certain. It is like the birds of Paradise that they have in the Indies, that have no feet; and therefore they never light upon any place, but the wind carries them away: and such a thing do I take this rumour to be.

And lastly, when that the king had in his two several speeches freed us from the main of our fears, in affirming directly that there was no undertaking to him; and that he would have taken it to be no less derogation to his own majesty than to our merits, to have the acts of his people transferred to particular persons; that did quiet me thus far, that these vapours were not gone up to the head, howsoever they might glow and estuate in the body.

Nevertheless, since I perceive that this cloud still hangs over the house, and that it may do hurt, as well in fame abroad as in the king's ear, I resolved with myself to do the part of an honest voice in this house to counsel you what I think to be for the best.

Wherein first, I will speak plainly of the pernicious effects of the accident of this bruit and opinion of undertaking, towards particulars, towards the house, towards the king, and towards the people.

Secondly, I will tell you, in mine opinion, what undertaking is tolerable, and how far it may be justified with a good mind; and on the other side, this same ripping up of the question of undertakers, how

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far it may proceed from a good mind, and in what kind it may be thought malicious and dangerous.

Thirdly, I will give you my poor advice, what means there are to put an end to this question of undertaking; not falling for the present upon a precise opinion, but breaking it, how many ways there be by which you may get out of it, and leaving the choice of them to a debate at the committee.

And lastly, I will advise you how things are to be handled at the committee, to avoid distraction and loss of time.

For the first of these, I can say to you but as the Scripture saith, "Si invicem mordetis, ab invicem consumemini;" if ye fret and gall one another's reputation, the end will be, that every man shall go hence, like coin cried down, of less price than he came hither. If some shall be thought to fawn upon the king's business openly, and others to cross it secretly, some shall be thought practisers that would pluck the cards, and others shall be thought papists that would shuffle the cards; what a misery is this that we should come together to fool one another, instead of procuring the public good!

And this ends not in particulars, but will make the whole house contemptible: for now I hear men say, that this question of undertaking is the predominant matter of this house. So that we are now according to the parable of Jotham in the case of the trees of the forest, that when question was, Whether the vine should reign over them? that might not be:

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and whether the olive should reign over them? that might not be: but we have accepted the bramble to reign over us. For it seems that the good vine of the king's graces, that is not so much in esteem; and the good oil, whereby we should salve and relieve the wants of the estate and crown, that is laid aside too: and this bramble of contention and emulation; this Abimelech, which, as was truly said by an understanding gentleman, is a bastard, for every fame that wants a head, is "filius populi," this must reign and rule amongst us.

Then for the king, nothing can be more opposite, "ex diametro," to his ends and hopes, than this: for you have heard him profess like a king, and like a gracious king, that he doth not so much respect his present supply, as this demonstration that the people's hearts are more knit to him than before. Now then if the issue shall be this, that whatsoever shall be done for him shall be thought to be done but by a number of persons that shall be laboured and packed; this will rather be a sign of diffidence and alienation, than of a natural benevolence and affection in his people at home; and rather matter of disreputation, than of honour abroad. So that, to speak plainly to you, the king were better call for a new pair of cards, than play upon these if they be packed.

And then for the people, it is my manner ever to look as well beyond a parliament as upon a parliament; and if they abroad shall think themselves betrayed by those that are their de-



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parties and attorneys here, it is true we may bind them and conclude them, but it will be with such murmur and insatisfaction as I would be loth to see.

These things might be dissembled, and so things left to bleed inwards; but that is not the way to cure them. And therefore I have searched the sore, in hope that you will endeavour the medicine.

But this to do more throughly, I must proceed to my second part, to tell you clearly and distinctly what is to be set on the right hand, and what on the left, in this business.

First, if any man hath done good offices to advise the king to call a parliament, and to increase the good affection and confidence of his majesty towards his people; I say, that such a person doth rather merit well, than commit any error. Nay further, if any man hath, out of his own good mind, given an opinion touching the minds of the parliament in general; how it is probable they are like to be found, and that they will have a due feeling of the king's wants, and will not deal drily or illiberally with him; this man, that doth but think of other men's minds, as he finds his own, is not to be blamed. Nay further, if any man hath coupled this with good wishes and propositions, that the king do comfort the hearts of his people, and testify his own love to them, by filing off the harshness of his prerogative, retaining the substance and strength; and to that purpose, like the good householder in the Scripture, that brought forth old store and new,

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hath revolved the petitions and propositions of the last parliament, and added new; I say, this man hath sown good seed; and he that shall draw him into envy for it, sows tares. Thus much of the right hand. But on the other side, if any shall mediately or immediately infuse into his majesty, or to others, that the parliament is, as Cato said of the Romans, "like sheep, that a man were better drive "a flock of them than one of them:" and however they may be wise men severally, yet in this assembly they are guided by some few, which if they be made and assured, the rest will easily follow: this is a plain robbery of the king of honour, and his subjects of thanks, and it is to make the parliament vile and servile in the eyes of their sovereign; and I count it no better than a supplanting of the king and kingdom. Again, if a man shall make this impression, that it shall be enough for the king to send us some things of shew that may serve for colours, and let some eloquent tales be told of them, and that will serve "ad faciendum populum;" any such person will find that this house can well skill of false lights, and that it is no wooing tokens, but the true love already planted in the breasts of the subjects, that will make them do for the king. And this is my opinion touching those that may have persuaded a parliament. Take it on the other side, for I mean in all things to deal plainly, if any man hath been diffident touching the call of a parliament, thinking that the best means were, first for the king to make his utmost trial to subsist of himself, and his own

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means; I say, an honest and faithful heart might consent to that opinion, and the event, it seems, doth not greatly discredit it hitherto. Again, if any man shall have been of opinion, that it is not a particular party that can bind the house; nor that it is not shews or colours can please the house; I say, that man, though his speech tend to discouragement, yet it is coupled with providence. But, by your leave, if any man, since the parliament was called, or when it was in speech, shall have laid plots to cross the good will of the parliament to the king, by possessing them that a few shall have the thanks, and that they are, as it were, bought and sold, and betrayed; and that that which the king offers them are but baits prepared by particular persons; or have raised rumours that it is a packed parliament; to the end nothing may be done, but that the parliament may be dissolved, as gamesters use to call for new cards, when they mistrust a pack: I say, these are engines and devices naught, malign, and seditious.

Now for the remedy; I shall rather break the matter, as I said in the beginning, than advise positively. I know but three ways. Some message of declaration to the king; some entry or protestation amongst ourselves; or some strict and punctual examination. As for the last of these, I assure you I am not against it, if I could tell where to begin, or where to end. For certainly I have often seen it, that things when they are in smother trouble more than when they break out. Smoke blinds the eyes,

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but when it blazeth forth into flame it gives light to the eyes. But then if you fall to an examination, some person must be charged, some matter must be charged; and the manner of that matter must be likewise charged; for it may be in a good fashion, and it may be in a bad, in as much difference as between black and white: and then how far men will ingenuously confess, how far they will politicly deny, and what we can make and gather upon their confession, and how we shall prove against their denial; it is an endless piece of work, and I doubt that we shall grow weary of it.

For a message to the king, it is the course I like best, so it be carefully and considerately handled: for if we shall represent to the king the nature of this body as it is, without the veils or shadows that have been cast upon it, I think we shall do him honour, and ourselves right.

For any thing that is to be done amongst ourselves, I do not see much gained by it, because it goes no farther than ourselves; yet if any thing can be wisely conceived to that end, I shall not be against it; but I think the purpose of it is fittest to be, rather that the house conceives that all this is but a misunderstanding, than to take knowledge that there is indeed a just ground, and then to seek, by a protestation, to give it a remedy. For protestations, and professions, and apologies, I never found them very fortunate; but they rather increase suspicion than clear it.

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Why then the last part is, that these things be handled at the committee seriously and temperately; wherein I wish that these four degrees of questions were handled in order.

First, whether we shall do any thing at all in it, or pass by it, and let it sleep?

Secondly, whether we shall enter into a particular examination of it?

Thirdly, whether we shall content ourselves with some entry or protestation among ourselves?

And fourthly, whether we shall proceed to a message to the king; and what?

Thus I have told you my opinion. I know it had been more safe and politic to have been silent; but it is perhaps more honest and loving to speak. The old verse is "Nam nulli tacuisse nocet, nocet "esse locutum." But, by your leave, David saith, "Silui a bonis, et dolor meus renovatus est." When a man speaketh, he may be wounded by others; but if he hold his peace from good things, he wounds himself. So I have done my part, and leave it to you to do that which you shall judge to be the best.

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## A SPEECH USED TO THE KING BY HIS MAJESTY'S SOLICITOR, BEING CHOSEN BY THE COMMONS AS THEIR MOUTH AND MESSENGER, FOR THE PRESENTING TO HIS MAJESTY THE INSTRUMENT OR WRITING OF THEIR GRIEVANCES.

IN THE PARLIAMENT 7 JACOBI.

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MOST GRACIOUS SOVEREIGN,

THE knights, citizens, and burgesses assembled in parliament, in the house of your commons, in all humbleness do exhibit and present unto your most sacred Majesty, in their own words, though by my hand, their petitions and grievances. They are here conceived and set down in writing, according to ancient custom of parliament: they are also prefaced according to the manner and taste of these later times. Therefore for me to make any additional preface, were neither warranted nor convenient; especially speaking before a king, the exactness of whose judgment ought to scatter and chase away all unnecessary speech as the sun doth a vapour. This only I must say; since this session of parliament we have seen your glory in the solemnity of the creation of this most noble prince; we have

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heard your wisdom in sundry excellent speeches which you have delivered amongst us; now we hope to find and feel the effects of your goodness, in your gracious answer to these our petitions. For this we are persuaded, that the attribute which was given by one of the wisest writers to two of the best emperors, "Divus Nerva et divus Trajanus," so saith Tacitus, "res olim insociabiles miscuerunt, imperium et libertatem;" may be truly applied to your majesty. For never was there such a conservator of regality in a crown, nor ever such a protector of lawful freedom in a subject.

Only this, excellent sovereign, let not the sound of grievances, though it be sad, seem harsh to your princely ears: it is but "gemitus columbæ," the mouring of a dove; with that patience and humility of heart which appertaineth to loving and loyal subjects. And far be it from us, but that in the midst of the sense of our grievances we should remember and acknowledge the infinite benefits, which by your majesty, next under God, we do enjoy; which bind us to wish unto your life fulness of days; and unto your line royal, a succession and continuance even unto the world's end.

It resteth, that unto these petitions here included I do add one more that goeth to them all: which is, that if in the words and frame of them there be any thing offensive; or that we have expressed ourselves otherwise than we should or would; that your majesty would cover it and cast the veil of your grace upon it; and accept of our good inten-

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tions, and help them by your benign interpretation.

Lastly, I am most humbly to crave a particular pardon for myself that have used these few words; and scarcely should have been able to have used any at all, in respect of the reverence which I bear to your person and judgment, had I not been somewhat relieved and comforted by the experience, which in my service and access I have had of your continual grace and favour.

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# A SPEECH OF THE KING'S SOLICITOR, USED UNTO THE LORDS AT A CONFERENCE BY COMMISSION FROM THE COMMONS, MOVING AND PERSUADING THE LORDS TO JOIN WITH THE COMMONS IN PETITION TO THE KING, TO OBTAIN LIBERTY TO TREAT OF A COMPOSITION WITH HIS MAJESTY FOR WARDS AND TENURES.

IN THE PARLIAMENT 7 JACOBI.

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The knights, citizens, and burgesses of the house of commons have commanded me to deliver to your lordships the causes of the conference by them prayed, and by your lordships assented, for the second business of this day. They have had report made unto them faithfully of his majesty's answer declared by my lord Treasurer, touching their humble desire to obtain liberty from his majesty to treat of compounding for tenures. And first, they think themselves much bound unto his majesty, that in "re nova," in which case princes use to be apprehensive, he hath made a gracious construction of their proposition. And so much they know of that, that belongs to the greatness of his majesty, and the greatness of the cause, as themselves acknowledge they ought not to have expected a present resolution, though the wise man saith, "Hope deferred is the fainting of the soul." But they know their duty to

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be to attend his majesty's times at his good pleasure. And this they do with the more comfort, because that in his majesty's answer, matching the times, and weighing the passages thereof, they conceive, in their opinion, rather hope than discouragement.

But the principal causes of the conference now prayed, besides these significations of duty not to be omitted, are two propositions. The one, matter of excuse of themselves; the other, matter of petition. The former of which grows thus. Your lordship, my lord Treasurer, in your last declaration of his majesty's answer, which, according to the attribute then given unto it by a great counsellor, had "imaginem Cæsaris" fair and lively graven, made this true and effectual distribution, that there depended upon tenures, considerations of honour, of conscience, and of utility. Of these three, utility, as his majesty set it by for the present, out of the greatness of his mind, so we set it by, out of the justness of our desires: for we never meant but a goodly and worthy augmentation of the profit now received, and not a diminution. But, to speak truly, that consideration falleth naturally to be examined when liberty of treaty is granted: but the former two indeed may exclude treaty, and cut it off before it be admitted.

Nevertheless, in this that we shall say concerning those two, we desire to be conceived rightly: we mean not to dispute with his majesty what belongeth to sovereign honour or his princely con-

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science; because we know we are not capable to discern of them otherwise, than as men use sometimes to see the image of the sun in a pail of water. But this we say for ourselves, God forbid that we, knowingly, should have propounded any thing, that might in our sense and persuasion touch either or both; and therefore herein we desire to be heard, not to inform or persuade his majesty, but to free and excuse ourselves.

And first, in general, we acknowledge, that this tree of tenures was planted into the prerogative by the ancient common law of this land: that it hath been fenced in and preserved by many statutes, and that it yieldeth at this day to the king the fruit of a great revenue. But yet, notwithstanding, if upon the stem of this tree may be raised a pillar of support to the crown permanent and durable as the marble, by investing the crown with a more ample, more certain, and more loving dowry, than this of tenures; we hope we propound no matter of disservice.

But to speak distinctly of both, and first of honour: wherein I pray your lordships, give me leave, in a subject that may seem "supra nos," to handle it rather as we are capable, than as the matter perhaps may require. Your lordships well know the various mixture and composition of our house. We have in our house learned civilians that profess a law, that we reverence and sometimes consult with: they can tell us, that all the laws "de feodis" are but additionals to the ancient civil law; and that the Ro-

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man emperors, in the full height of their monarchy, never knew them; so that they are not imperial. We have grave professors of the common law, who will define unto us that those are parts of sovereignty, and of the regal prerogative, which cannot be communicated with subjects: but for tenures in substance, there is none of your lordships but have them, and few of us but have them. The king, indeed, hath a priority or first service of his tenures; and some more amplitude of profit in that we call tenure in chief: but the subject is capable of tenures; which shews that they are not regal, nor any point of sovereignty. We have gentlemen of honourable service in the wars both by sea and land, who can inform us, that when it is in question, who shall set his foot foremost towards the enemy; it is never asked, Whether he holds in knight's service or in socage? So have we many deputy lieutenants to your lordships, and many commissioners that have been for musters and levies, that can tell us, that the service and defence of the realm hath in these days little dependence upon tenures. So then we perceive that it is no bond or ligament of government; no spur of honour, no bridle of obedience. Time was, when it had other uses, and the name of knight's service imports it: but "vocabula manent, res fugiunt." But all this which we have spoken we confess to be but in a vulgar capacity; which nevertheless may serve for our excuse, though we submit the thing itself wholly to his majesty's judgment.

For matter of conscience, far be it from us to

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cast in any thing willingly, that may trouble that clear fountain of his majesty's conscience. We do confess it is a noble protection, that these young birds of the nobility and good families should be gathered and clocked under the wings of the crown. But yet "Naturæ vis maxima:" and "Suus cuique discretus sanguis." Your lordships will favour me, to observe my former method. The common law itself, which is the best bounds of our wisdom, doth, even "in hoc individuo," prefer the prerogative of the father before the prerogative of the king: for if lands descend, held in chief from an ancestor on the part of a mother, to a man's eldest son, the father being alive, the father shall have the custody of the body, and not the king. It is true that this is only for the father, and not any other parent or ancestor: but then if you look to the high law of tutelage and protection, and of obedience and duty, which is the relative thereunto; it is not said, "Honour thy father alone," but "Honour thy father and thy mother," &c. Again, the civilians can tell us, that there was a special use of the pretorian power for pupils, and yet no tenures. The citizens of London can tell us, there be courts of orphans, and yet no tenures. But all this while we pray your lordships to conceive, that we think ourselves not competent to discern of the honour of his majesty's crown, or the shrine of his conscience; but leave it wholly unto him, and allege these things but in our own excuse.

For matter of petition, we do continue our most humble suit, by your lordships loving conjunction,

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that his majesty will be pleased to open unto us this entrance of his bounty and grace, as to give us liberty to treat. And lastly, we know his majesty's times are not subordinate at all but to the globe above. About this time the sun hath got even with the night, and will rise apace; and we know Solomon's temple, whereof your lordship, my lord Treasurer, spake, was not built in a day: and if we shall be so happy as to take the ax to hew, and the hammer to frame, in this case, we know it cannot be without time; and therefore, as far as we may with duty, and without importunity, we most humbly desire an acceleration of his majesty's answer, according to his good time and royal pleasure.

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## A FRAME OF DECLARATION FOR THE MASTER OF THE WARDS, AT HIS FIRST SITTING.

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THE king, whose virtues are such, as if we, that are his ministers, were able duly to correspond unto them, it were enough to make a golden time, hath commanded certain of his intentions to be published, touching the administration of this place, because they are somewhat differing from the usage of former times, and yet not by way of novelty, but by way of reformation, and reduction of things to their ancient and true institution.

Wherein, nevertheless, it is his majesty's express pleasure it be signified, that he understands this to be done, without any derogation from the memory or service of those great persons, which have formerly held this place, of whose doings his majesty retaineth a good and gracious remembrance, especially touching the sincerity of their own minds.

But now that his majesty meaneth to be as it were master of the wards himself, and that those that he useth be as his substitutes, and move wholly

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in his motion; he doth expect things be carried in a sort worthy his own care.

First, therefore, his majesty hath had this princely consideration with himself, that as he is "pater "patriæ," so he is by the ancient law of this kingdom "pater pupillorum," where there is any tenure by knight's service of himself; which extendeth almost to all the great families noble and generous of this kingdom: and therefore being a representative father, his purpose is to imitate, and approach as near as may be to the duties and offices of a natural father, in the good education, well bestowing in marriage, and preservation of the houses, woods, lands, and estates of his wards.

For as it is his majesty's direction, that that part which concerns his own profit and right, be executed with moderation; so on the other side, it is his princely will that that other part, which concerneth protection, be overspread and extended to the utmost.

Wherein his majesty hath three persons in his eye, the wards themselves, idiots, and the rest of like nature; the suitors in this court; and the subjects at large.

For the first, his majesty hath commanded special care to be taken in the choice of the persons, to whom they be committed, that the same be sound in religion, such whose house and families are not noted for dissolute, no greedy persons, no stepmothers, nor the like; and with these qualifications, of the nearest friends: nay, further, his majesty is minded not so to delegate this trust to the com-



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mittees, but that he will have once in the year at least, by persons of credit in every county, a view and inspection taken of the persons, houses, woods, and lands of the wards, and other persons under the protection of this court, and certificate to be made thereof accordingly.

For the suitors, which is the second; his majesty's princely care falls upon two points of reformation; the first, that there be an examination of fees, what are due and ancient, and what are new and exacted; and those of the latter kind put down: the other, that the court do not entertain causes too long upon continuances of liveries after the parties are come of full age, which serveth but to waste the parties in suit, considering the decrees cannot be perpetual, but temporary; and therefore controversies here handled, are seldom put in peace, till they have past a trial and decision in other courts.

For the third, which is the subject at large; his majesty hath taken into his princely care the unnecessary vexations of his people by feodaries, and other inferior ministers of like nature, by colour of his tenures; of which part I say nothing for the present, because the parties whom it concerns are for the most part absent: but order shall be given, that they shall give their attendance the last day of the term, then to understand further his majesty's gracious pleasure.

Thus much by his majesty's commandment; now we may proceed to the business of the court.

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## DIRECTIONS FOR THE MASTER OF THE WARDS TO OBSERVE, FOR HIS MAJESTY'S BETTER SERVICE, AND THE GENERAL GOOD.

First, that he take an account how his majesty's last instructions have been pursued; and of the increase of benefit accrued to his majesty thereby, and the proportion thereof.

Wherein first, in general, it will be good to cast up a year's benefit, viz. from February, 1610, which is the date of the instructions under the great seal, to February, 1611; and to compare the total with the former years before the instructions, that the tree may appear by the fruit, and it may be seen how much his majesty's profit is redoubled or increased by that course.

Secondly, it will not be amiss to compute not only the yearly benefit, but the number of wardships granted that year, and to compare that with the number of former years; for though the number be a thing casual, yet if it be apparently less than in former years, then it may be justly doubted, that men take advantage upon the last clause in the instructions, of exceptions of wards concealed, to practise delays and misfinding of offices, which is a thing most dangerous.

Thirdly, in particular it behoveth to peruse and review the bargains made, and to consider the rates, men's estates being things which for the most part cannot be hid, and thereby to discern what improve-

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ments and good husbandry have been used, and how much the king hath more now when the whole benefit is supposed to go to him, than he had when three parts of the benefit went to the committee.

Fourthly, It is requisite to take consideration what commissions have been granted for copyholds for lives, which are excepted by the instructions from being leased, and what profit hath been raised thereby.

Thus much for the time past, and upon view of these accounts, "res dabit consilium" for further order to be taken.

For the time to come, first, it is fit that the master of the wards, being a meaner person, be usually present as well at the treaty and beating of the bargain, as at the concluding, and that he take not the business by report.

Secondly, When suit is made, the information by survey and commission is but one image, but the way were by private diligence to be really informed: neither is it hard for a person that liveth in an inn of court, where there be understanding men of every county of England, to obtain by care certain information.

Thirdly, This kind of promise of preferring the next akin, doth much obscure the information, which before by competition of divers did better appear; and therefore it may be necessary for the master of the wards sometimes to direct letters to some persons near the ward living, and to take certificate from them: it being always intended the subject be not

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racked too high, and that the nearest friends that be sound in religion, and like to give the ward good education, be preferred.

Fourthly, That it be examined carefully whether the ward's revenues consist of copyholds for lives, which are not to be comprised in the lease, and that there be no neglect to grant commissions for the same, and that the master take order to be certified of the profits of former courts held by the ward's ancestor, that it may be a precedent and direction for the commissioners.

Fifthly, That the master make account every six months, (the state appoints one in the year) to his majesty; and that when he bringeth the bill of grants of the body for his majesty's signature, he bring a schedule of the truth of the state of every one of them, as it hath appeared to him by information, and acquaint his majesty both with the rates and states.

Thus much concerning the improvement of the king's profit, which concerneth the king as "pater familias;" now as "pater patriæ."

First, for the wards themselves, that there be special care taken in the choice of the committee, that he be sound in religion, his house and family not dissolute, no greedy person, no step-mother, nor the like.

Further, that there be letters written once every year to certain principal gentlemen of credit in every county, to take view not only of the person of the wards in every county, and their education; but of

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their houses, woods, grounds, and estate, and the same to certify; that the committees may be held in some awe, and that the blessing of the poor orphans and the pupils may come upon his majesty and his children.

Secondly, for the suitors; that there be a strait examination concerning the raising and multiplication of fees in that court, which is much scandalized with opinion thereof, and all exacted fees put down.

Thirdly, for the subjects at large; that the vexation of escheators and feodaries be repressed, which, upon no substantial ground of record, vex the country with inquisitions and other extortions: and for that purpose that there be one set day at the end of every term appointed for examining the abuses of such inferior officers, and that the master of wards take special care to receive private information from gentlemen of quality and conscience in every shire touching the same.

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# A SPEECH OF THE KING'S SOLICITOR, PERSUADING THE HOUSE OF COMMONS TO DESIST FROM FARTHER QUESTION OF RECEIVING THE KING'S MEESAGES BY THEIR SPEAKER, AND FROM THE BODY OF THE COUNCIL, AS WELL AS FROM THE KING'S PERSON.

IN THE PARLIAMENT 7 JACOBI.

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It is my desire, that if any the king's business, either of honour or profit, shall pass the house, it may be not only with external prevailing, but with satisfaction of the inward man. For in consent, where tongue-strings, not heart-strings, make the music, that harmony may end in discord. To this I shall always bend my endeavours.

The king's sovereignty, and the liberty of parliament, are as the two elements and principles of this estate; which, though the one be more active, the other more passive, yet they do not cross or destroy the one the other; but they strengthen and maintain the one the other. Take away liberty of parliament, the griefs of the subject will bleed inwards: sharp and eager humours will not evaporate; and then they must exulcerate; and so may endanger the sovereignty itself. On the other side, if the king's sovereignty receive diminution, or any degree of con-

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tempt with us that are born under an hereditary monarchy, so as the motions of our estate cannot work in any other frame or engine, it must follow, that we shall be a meteor, or "corpus imperfecte mistum;" which kind of bodies come speedily to confusion and dissolution. And herein it is our happiness, that we may make the same judgment of the king, which Tacitus made of Nerva: "Divus Nerva res olim dissociabiles "miscuit, imperium et libertatem." Nerva did temper things, that before were thought incompatible, or insociable, sovereignty and liberty. And it is not amiss in a great council and a great cause to put the other part of the difference, which was significantly expressed by the judgment which Apollonius made of Nero; which was thus: when Vespasian came out of Judæa towards Italy, to receive the empire, as he passed by Alexandria he spake with Apollonius, a man much admired, and asked him a question of state: "What was the cause of Nero's fall or "overthrow?" Apollonius answered again, "Nero "could tune the harp well: but in government he "always either wound up the pins too high, and "strained the strings too far; or let them down "too low, and slackened the strings too much." Here we see the difference between regular and able princes, and irregular and incapable, Nerva and Nero. The one tempers and mingles the sovereignty with the liberty of the subject wisely; and the other doth interchange it, and vary it unequally and absurdly. Since therefore we have a prince of so excellent wisdom and moderation, of whose au-

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thority we ought to be tender, as he is likewise of our liberty, let us enter into a true and indifferent consideration, how far forth the case in question may touch his authority, and how far forth our liberty: and, to speak clearly, in my opinion it concerns his authority much, and our liberty nothing at all.

The questions are two: the one, whether our speaker be exempted from delivery of a message from the king without our licence? The other, whether it is not all one whether he received it from the body of the council, as if he received it immediately from the king? And I will speak of the last first, because it is the circumstance of the present case.

First, I say, let us see how it concerns the king, and then how it concerns us. For the king, certainly, if it be observed, it cannot be denied, but if you may not receive his pleasure by his representative body, which is his council of his estate, you both straiten his majesty in point of conveniency, and weaken the reputation of his council. All kings, though they be gods on earth, yet, as he said, they are gods of earth, frail as other men; they may be children; they may be of extreme age; they may be indisposed in health; they may be absent. In these cases, if their council may not supply their persons, to what infinite accidents do you expose them? Nay, more, sometimes in policy kings will not be seen, but cover themselves with their council; and if this be taken from them, a great part of

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their safety is taken away. For the other point, of weakening the council; you know they are nothing without the king: they are no body-politic; they have no commission under seal. So as, if you begin to distinguish and disjoin them from the king, they are "corpus opacum;" for they have "lumen de "lumine:" and so by distinguishing you extinguish the principal engine of the estate. For it is truly affirmed, that "Concilium non habet potestatem "delegatam, sed inhærentem:" and it is but "Rex "in cathedra," the king in his chair or consistory, where his will and decrees, which are in privacy more changeable, are settled and fixed.

Now for that which concerns ourselves. First, for dignity; no man must think this a disparagement to us: for the greatest kings in Europe, by their ambassadors, receive answers and directions from the council in the king's absence; and if that negociation be fit for the fraternity and party of kings, it may much less be excepted to by subjects.

For use or benefit, no man can be so raw and unacquainted in the affairs of the world, as to conceive there should be any disadvantage in it, as if such answers were less firm and certain. For it cannot be supposed, that men of so great caution, as counsellors of estate commonly are, whether you take caution for wisdom or providence, or for pledge of estate or fortune, will ever err, or adventure so far as to exceed their warrant. And therefore I conclude, that in this point there can be unto us neither disgrace nor disadvantage.

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For the point of the speaker. First, on the king's part, it may have a shrewd illation: for it hath a shew, as if there could be a stronger duty than the duty of a subject to a king. We see the degrees and differences of duties in families, between father and son, master and servant; in corporate bodies, between commonalties and their officers, recorders, stewards, and the like; yet all these give place to the king's commandments. The bonds are more special, but not so forcible. On our part, it concerns us nothing. For first it is but "de canali," of the pipe; how the king's message shall be conveyed to us, and not of the matter. Neither hath the speaker any such dominion, as that coming out of his mouth it presseth us more than out of a privy counsellor's. Nay, it seems to be a great trust of the king's towards the house, when the king doubteth not to put his message into their mouth, as if he should speak to the city by their recorder: therefore, methinks, we should not entertain this unnecessary doubt. It is one use of wit to make clear things doubtful; but it is a much better use of wit to make doubtful things clear; and to that I would men would bend themselves.

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# AN ARGUMENT OF SIR FRANCIS BACON, THE KING'S SOLICITOR IN THE LOWER HOUSE OF PARLIAMENT, PROVING THE KING'S RIGHT OF IMPOSITIONS ON MERCHANDISES IMPORTED AND EXPORTED.*

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And it please you, Mr. Speaker, this question touching the right of impositions is very great; extending to the prerogative of the king on the one part, and the liberty of the subject on the other; and that in a point of profit and value, and not of conceit or fancy. And therefore, as weight in all motions increaseth force, so I do not marvel to see men gather the greatest strength of argument they can to make good their opinions. And so you will give me leave likewise, being strong in mine own persuasion that it is the king's right, to shew my voice as free as my thought. And for my part, I mean to observe the true course to give strength to this cause, which is,

* This matter mas much debated by the lawyers and gentlemen in the parliament 1610, and 1614, &c. and afterwards given up by the crown in 1641.

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by yielding those things which are not tenable, and keeping the question within the true state and compass; which will discharge many popular arguments, and contract the debate into a less room.

Wherefore I do deliver the question, and exclude or set by, as not in question, five things. First, the question is "de portorio," and not "de tributo," to use the Roman words for explanation sake; it is not, I say, touching any taxes within the land, but of payments at the ports. Secondly, it is not touching any impost from port to port, but where "claves "regni," the keys of the kingdom, are turned to let in from foreign parts, or to send forth to foreign parts, in a word, matter of commerce and intercourse, not simply of carriage or vecture. Thirdly, the question is, as the distinction was used above in another case, "de vero et falso," and not "de "bono et malo," of the legal point, and not of the inconvenience, otherwise than as it serves to decide the law. Fourthly, I do set apart three commodities, wool, wool-fells, and leather, as being in different case from the rest; because the custom upon them is "antiqua custuma." Lastly, the question is not, whether in matter of imposing the king may alter the law by his prerogative, but whether the king have not such a prerogative by law.

The state of the question being thus cleared and freed, my proposition is, that the king by the fundamental laws of this kingdom hath a power to impose

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upon merchandise and commodities both native and foreign. In my proof of this proposition all that I shall say, be it to confirm or confute, I will draw into certain distinct heads or considerations which move me, and may move you.

The first is an universal negative: there appeareth not in any of the king's courts any one record, wherein an imposition laid at the ports hath been overthrown by judgment; nay more, where it hath been questioned by pleading. This plea, "quod "summa prædicta minus juste imposita fuit, et con- "tra leges et consuetudines regni hujus Angliæ, "unde idem Bates illam solvere recusavit, prout ei "bene licuit;" is "primæ impressionis." Bates was the first man "ab origine mundi, for any thing that appeareth, that ministered that plea; whereupon I offer this to consideration: the king's acts that grieve the subject are either against law, and so void, or according to strictness of law, and yet grievous. And according to these several natures of grievance, there be several remedies: Be they against law? Overthrow them by judgment: Be they too strait and extreme, though legal? Propound them in parliament. Forasmuch then as impositions at the ports, having been so often laid, were never brought into the king's courts of justice, but still brought to parliament, I may most certainly conclude, that they were conceived not to be against law. And if any man shall think that it was too high a point to question by law before the judges, or that there should want fortitude in them

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to aid the subject; no, it shall appear from time to time, in cases of equal reach, where the king's acts have been indeed against law, the course of law hath run, and the judges have worthily done their duty.

As in the case of an imposition upon linen cloth for the alnage; overthrown by judgment.

The case of a commission of arrest and committing of subjects upon examination without conviction by jury, disallowed by the judges.

A commission to determine the right of the exigenter's place, "secundum sanam discretionem," disallowed by the judges.

The case of the monopoly of cards overthrown and condemned by judgment.

I might make mention of the jurisdiction of some courts of discretion, wherein the judges did not decline to give opinion. Therefore, had this been against law, there would not have been "altum si-" lentium" in the king's courts. Of the contrary judgments I will not yet speak; thus much now, that there is no judgment, no nor plea against it. Though I said no more, it were enough, in my opinion, to induce you to a "non liquet," to leave it a doubt.

The second consideration is, the force and continuance of payments made by grants of merchants, both strangers and English, without consent of parliament. Herein I lay this ground, that such grants considered in themselves are void in law: for merchants, either strangers or subjects, they are no body corporate, but singular and dispersed persons; they

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cannot bind succession, neither can the major part bind the residue: how then should their grants have force? No otherwise but thus: that the king's power of imposing was only the legal virtue and strength of those grants; and that the consent of a merchant is but a concurrence, the king is "princi- "pale agens," and they are but as the patient, and so it becomes a binding act out of the king's power.

Now if any man doubt that such grants of merchants should not be of force, I will allege but two memorable records, the one for the merchants strangers, the other for the merchants English. That for the strangers is upon the grant of "chart. mer- "cator." of three pence in value "ultra antiquas "custumas;" which grant is in use and practice at "this day. For it is well known to the merchants, that that which they call stranger's custom, and erroneously double custom, is but three pence in the pound more than English. Now look into the statutes of subsidy of tonnage and poundage, and you shall find, a few merchandise only excepted, the poundage equal upon alien and subject; so that this difference or excess of three pence hath no other ground than that grant. It falleth to be the same in quantity, there is no statute for it, and therefore it can have no strength but from the merchants grants; and the merchants grants can have no strength but from the king's power to impose.

For the merchants English, take the notable record in 17 E. III. where the commons complained of the forty shillings upon the sack of wool as a maltoll set by the assent of the merchants without con-

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sent of parliament; nay, they dispute and say it were hard that the merchants consent should be in damage of the commons. What saith the king to them? doth he grant it or give way to it? No; but replies upon them, and saith, It cannot be rightly construed to be in prejudice of the commons, the rather because provision was made, that the merchants should not work upon them, by colour of that payment to increase their price; in that there was a price certain set upon the wools. And there was an end of that matter: which plainly affirmeth the force of the merchants grants. So then the force of the grants of merchants both English and strangers appeareth, and their grants being not corporate, are but noun adjectives without the king's power to impose.

The third consideration is, of the first and most ancient commencement of customs; wherein I am somewhat to seek; for, as the poet saith, "Ingre-"diturque solo, et caput inter nubila condit," the beginning of it is obscure: but I rather conceive that it is by common law than by grant in parliament. For, first, Mr. Dyer's opinion was, that the ancient custom for exportation was by the common laws; and goeth further, that that ancient custom was the custom upon wools, woolfells, and leather: he was deceived in the particular, and the diligence of your search hath revealed it; for that custom upon these three merchandises grew by grant of parliament 3 E. I. but the opinion in general was sound; for there was a custom before that:



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for the records themselves which speak of that custom do term it a new custom, "Alentour del novel "custome," As concerning the new custom granted, etc. this is pregnant, there was yet a more ancient. So for the strangers, the grant in 31 E. I. "chart. "mercator." is, that the three pence granted by the strangers should be "ultra antiquas custumas," which hath no affinity with that custom upon the three species, but presupposeth more ancient customs in general. Now if any man think that those more ancient customs were likewise by act of parliament, it is but a conjecture: it is never recited "ultra "antiquas custumas prius concessas," and acts of parliament were not much stirring before the great charter, which was 9 H. III. And therefore I conceive with Mr. Dyer, that whatsoever was the ancient custom, was by the common law. And if by the common law, then what other means can be imagined of the commencement of it but by the king's imposing?

The fourth consideration is, of the manner that was held in parliament in the abolishing of impositions laid: wherein I will consider, first, the manner of the petitions exhibited in parliament; and more especially the nature of the king's answers. For the petitions I note two things; first, that to my remembrance there was never any petition made for the revoking of any imposition upon foreign merchants only. It pleased the Decemviri in 5 E. II. to deface "chart. mercator." and so the imposition upon strangers, as against law: but the opinion of these refor-

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mers I do not much trust, for they of their gentleness did likewise bring in doubt the demy-mark, which it is manifest was granted by parliament, and pronounced by them the king should have it, "s'il "avoit le doit:" but this is declared void by 1 E. III. which reneweth "chart. mercator." and void must it needs be, because it was an ordinance by commission only, and that in the time of a weak king, and never either warranted or confirmed by parliament. Secondly, I note that petitions were made promiscuously for taking away impositions set by parliament as well as without parliament; nay, that very tax of the "neufiesme," the ninth sheaf or fleece, which is recited to be against the king's oath and in blemishment of his crown, was an act of parliament, 14 E. III. So then to infer that impositions were against law, because they are taken away by succeeding parliaments, it is no argument at all; because the impositions set by the parliaments themselves, which no man will say were against law, were, nevertheless, afterwards pulled down by parliament. But indeed the argument holdeth rather the other way, that because they took not their remedy in the king's courts of justice, but did fly to the parliament, therefore they were thought to stand with law.

Now for the king's answers: if the impositions complained of had been against law, then the king's answer ought to have been simple, "tanquam re-"sponsio categorica, non hypothetica;" as, let them be repealed, or, Let the law run: but contrariwise, they admit all manner of diversities and qualifications: for

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Sometimes the king disputeth the matter and doth nothing; as 17 E. III.

Sometimes the king distinguisheth of reasonable and not reasonable, as 38 E. III.

Sometimes he abolisheth them in part, and letteth them stand in part, as 11 E. II. the record of the "mutuum," and 14 E. III. the printed statute, whereof I shall speak more anon.

Sometimes that no imposition shall be set during the time that the grants made of subsidies by parliament shall continue, as 47 E. III.

Sometimes that they shall cease "ad voluntatem "nostram."

And sometimes that they shall hold over their term prefixed or asseissed.

All which sheweth that the king did not disclaim them as unlawful, for "actus legitimus non recipit "tempus aut conditionem." If it had been a disaffirmance by law, they must have gone down "in solido," but now you see they have been tempered and qualified as the king saw convenient.

The fifth consideration is of that which is offered by way of objection; which is, first, that such grants have been usually made by consent of parliament; and secondly, that the statutes of subsidies of tonnage and poundage have been made as a kind of stint and limitation, that the king should hold himself unto the proportion so granted and not impose further; the rather because it is expressed in some

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of these statutes of tonnage and poundage, sometimes by way of protestation, and sometimes by way of condition, that they shall not be taken in precedent, or that the king shall not impose any further rates or novelties, as 6 R. II. 9 R. II. 13 H. IV. 1 H. V. which subsidies of tonnage and poundage have such clauses and cautions.

To this objection I give this answer. First, that it is not strange with kings, for their own better strength, and the better contentment of their people, to do those things by parliament, which nevertheless have perfection enough without parliament. We see their own rights to the crown which are inherent, yet they take recognition of them by parliament. And there was a special reason why they should do it in this case, for they had found by experience that if they had not consent in parliament to the setting of them up, they could not have avoided suit in parliament for the taking of them down. Besides, there were some things requisite in the manner of the levy for the better strengthening of the same, which percase could not be done without parliament, as the taking the oath of the party touching the value, the inviting of the discovery of concealment of custom by giving the moiety to the informer, and the like.

Now in special for the statutes of subsidies of tonnage and poundage, I note three things. First, that the consideration of the grant is not laid to be for the restraining of impositions, but expressly for the guarding of the sea. Secondly, that it is true that the ancient form is more peremptory, and the

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modern more submiss; for in the ancient form sometimes they insert a flat condition that the king shall not further impose; in the latter they humbly pray that the merchants may be demeaned without oppression, paying those rates; but whether it be supplication, or whether it be condition, it rather implieth the king hath a power; for else both were needless, for "conditio annectitur ubi libertas præ-"sumitur," and the word oppression seemeth to refer to excessive impositions. And thirdly, that the statutes of tonnage and poundage are but "cumulative" and not "privative" of the king's power precedent, appeareth notably in the three pence overplus, which is paid by the merchants strangers, which should be taken away quite, if those statutes were taken to be limitations; for in that, as was touched before, the rates are equal in the generality between subjects and strangers, and yet that imposition, notwithstanding any supposed restriction of these acts of subsidies of tonnage and poundage, remaineth at this day.

The sixth consideration is likewise of an objection, which is matter of practice, viz. that from R. II's. time to Q. Mary, which is almost 200 years, there was an intermission of impositions, as appeareth both by records and the custom-books.

To which I answer; both that we have in effect an equal number of years to countervail them, namely, 100 years in the times of the three kings Edwards added to 60 of our last years; and "extrema obru-

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" unt media ;" for we have both the reverence of antiquity and the possession of the present times, and they but the middle times ; and besides, in all true judgment there is a very great difference between an usage to prove a thing lawful, and a non-usage to prove it unlawful: for the practice plainly implieth consent ; but the discontinuance may be either because it was not needful, though lawful ; or because there was found a better means, as I think it was indeed in respect of the double customs by means of the staple at Calais.

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## A BRIEF SPEECH IN THE END OF THE SESSION OF PARLIAMENT 7 JACOBI. PERSUADING SOME SUPPLY TO BE GIVEN TO HIS MAJESTY; WHICH SEEMED THEN TO STAND UPON DOUBTFUL TERMS, AND PASSED UPON THIS SPEECH.

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THE proportion of the king's supply is not now in question: for when that shall be, it may be I shall be of opinion, that we should give so now, as we may the better give again. But as things stand for the present, I think the point of honour and reputation is that which his majesty standeth most upon, that our gift may at least be like those showers, that may serve to lay the winds, though they do not sufficiently water the earth.

To labour to persuade you, I will not: for I know not into what form to cast my speech. If I should enter into a laudative, though never so due and just, of the king's great merits, it may be taken for flattery: if I should speak of the strait obligations which intercede between the king and the subject, in case of the king's want, it were a kind of concluding the house: if I should speak of the dangerous consequence which want may reverberate upon subjects, it might have a shew of a secret menace.

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These arguments are, I hope, needless, and do better in your minds than in my mouth. But this give me leave to say, that whereas the example of Cyrus was used, who sought his supply from those upon whom he had bestowed his benefits; we must always remember, that there are as well benefits of the sceptre as benefits of the hand, as well of government as of liberality. These, I am sure, we will acknowledge to have come "plena manu" amongst us all, and all those whom we represent; and therefore it is every man's head in this case that must be his counsellor, and every man's heart his orator; and to those inward powers more forcible than any man's speech, I leave it, and wish it may go to the question.

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## A CERTIFICATE TO THE LORDS OF THE COUNCIL, UPON INFORMATION GIVEN TOUCHING THE SCARCITY OF SILVER AT THE MINT, AND REFERENCE TO THE TWO CHANCELLORS, AND THE KING'S SOLICITOR.

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IT MAY PLEASE YOUR LORDSHIPS,

ACCORDING unto your lordships letters unto us directed, grounded upon the information which his majesty hath received concerning the scarcity of silver at the Mint, we have called before us as well the officers of the Mint, as some principal merchants, and spent two whole afternoons in the examination of the business; wherein we kept this order, first to examine the fact, then the causes, with the remedies.

And for the fact, we directed the officers of the Mint to give unto us a distinguished account how much gold and silver hath yearly been brought into the Mint, by the space of six whole years last past, more especially for the last three months succeeding the last proclamation touching the price of gold; to the end we might by the suddenness of the fall discern, whether that proclamation might be thought the efficient cause of the present scarcity. Upon which account it appears to us, that during the

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space of six years aforesaid, there hath been still degrees of decay in quantity of the silver brought to the Mint, but yet so, as within these last three months it hath grown far beyond the proportion of the former time, insomuch as there comes in now little or none at all. And yet, notwithstanding, it is some opinion, as well amongst the officers of the Mint as the merchants, that the state need be the less apprehensive of this effect, because it is like to be but temporary, and neither the great flush of gold that is come into the Mint since the proclamation, nor on the other side the great scarcity of silver, can continue in proportion as it now doth.

Another point of the fact, which we thought fit to examine, was, whether the scarcity of silver appeared generally in the realm, or only at the Mint; wherein it was confessed by the merchants, that silver is continually imported into the realm, and is found stirring amongst the goldsmiths, and otherwise, much like as in former times, although, in respect of the greater price which it hath with the goldsmith, it cannot find the way to the Mint. And thus much for the fact.

For the causes with the remedies, we have heard many propositions made, as well by the lord Knevet, who assisted us in this conference, as by the merchants; of which propositions few were new unto us, and much less can be new to your lordships; but yet although upon former consultations, we are not unacquainted what is more or less likely to stand with your lordships grounds and opinions,

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we thought it nevertheless the best fruit of our diligence to set them down in articles, that your lordships with more ease may discard or entertain the particulars, beginning with those which your lordships do point at in your letters, and so descending to the rest.

The first proposition is, touching the disproportion of the price between gold and silver, which is now brought to bed, upon the point of fourteen to one, being before but twelve to one. This we take to be an evident cause of scarcity of silver at the Mint, but such a cause as will hardly receive a remedy; for either your lordships must draw down again the price of gold, or advance the price of silver; whereof the one is going back from that which is so lately done, and whereof you have found good effect, and the other is a thing of dangerous consequence in respect of the loss to all moneyed men in their debts, gentlemen in their rents, the king in his customs, and the common subject in raising the price of things vendible. And upon this point it is fit we give your lordships understanding what the merchants intimated unto us, that the very voicing or suspect of the raising of the price of silver, if it be not cleared, would make such a deadness and retention of money this vacation, as, to use their own words, will be a misery to the merchants: so that we were forced to use protestation, that there was no such intent.

The second proposition, is touching the charge of coinage; wherein it was confidently avouched by

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the merchants, that if the coinage were brought from two shillings unto eighteen pence, as it was in queen Elizabeth's time, the king would gain more in the quantity than he should lose in the price: and they aided themselves with that argument, that the king had been pleased to abate his coinage in the other metal, and found good of it: which argument, though it doth admit a difference, because that abatement was coupled with the raising of the price, whereas this is to go alone; yet nevertheless it seemed the officers of the Mint were not unwilling to give way to some abatement, although they presumed it would be of small effect, because that abatement would not be equivalent to that price which Spanish silver bears with the goldsmith; but yet it may be used as an experiment of state, being recoverable at his majesty's pleasure.

The third proposition is, concerning the exportation of silver more than in former times, wherein we fell first upon the trade into the East Indies; concerning which it was materially in our opinions answered by the merchants of that company, that the silver which supplies that trade, being generally Spanish moneys, would not be brought in but for that trade, so that it sucks in as well as it draws forth. And it was added likewise, that as long as the Low Countries maintained that trade in the Indies, it would help little though our trade were dissolved, because that silver which is exported immediately by us to the Indies would be drawn out of this kingdom for the Indies imme-

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diately by the Dutch: and for the silver exported to the Levant, it was thought to be no great matter. As for other exportation, we saw no remedy but the execution of the laws, specially those of employment being by some mitigation made agreeable to the times. And these three remedies are of that nature, as they serve to remove the causes of this scarcity. There were other propositions of policies and means, directly to draw silver to the Mint.

The fourth point thereof was this: It is agreed that the silver which hath heretofore fed the Mint, principally hath been Spanish money. This now comes into the realm plentifully, but not into the Mint. It was propounded in imitation of some precedent in France, that his majesty would by proclamation restrain the coming in of this money "sub modo," that is, that either it be brought to the Mint, or otherwise to be cut and defaced, because that now it passeth in payments in a kind of currency. To which it was colourably objected, that this would be the way to have none brought in at all, because the gain ceasing, the importation would cease; but this objection was well answered, that it is not gain altogether, but a necessity of speedy payment, that causeth the merchant to bring in silver to keep his credit, and to drive his trade: so that if the king keep his fourteen days payment at the Mint, as he always hath done, and have likewise his exchangers for those moneys in some principal parts, it is supposed that all Spanish moneys, which is the bulk of silver brought into this realm,

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would by means of such a proclamation come into the Mint; which may be a thing considerable.

The fifth proposition was this: It was warranted by the laws of Spain to bring in silver for corn or victuals; it was propounded that his majesty would restrain exportation of corn "sub modo," except they bring the silver which resulted thereof unto his Mint; that trade being commonly so beneficial, as the merchant may well endure the bringing of the silver to the Mint, although it were at the charge of coinage, which it now beareth further, as incident to this matter. There was revived by the merchants, with some instance, the ancient proposition concerning the erection of granaries for foreign corn, forasmuch as by that increase of trade in corn, the importation of silver would likewise be multiplied.

The sixth proposition was, That upon all licence of forbidden commodities, there shall be a rate set of silver to be brought into the Mint: which nevertheless may seem somewhat hard, because it imposeth upon the subject that which causeth him to incur peril of confiscation in foreign parts. To trouble your lordships further with discourses which we had of making foreign coins current, and of varying the king's standard to weight, upon the variations in other states, and repressing surfeit of foreign commodities, that our native commodities, surmounting the foreign, may draw in treasure by way of overplus; they be common places so well known to your lordships, as it is enough to mention them only.

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There is only one thing more, which is, to put your lordships in mind of the extreme excess in the wasting of both metals, both of gold and silver foliate, which turns the nature of these metals, which ought to be perdurable, and makes them perishable, and by consumption must be a principal cause of scarcity in them both; which we conceive may receive a speedy remedy by his majesty's proclamation.

Lastly, We are humble suitors to your lordships, that for any of these propositions, that your lordships should think fit to entertain in consultations, your lordships would be pleased to hear them debated before yourselves, as being matters of greater weight than we are able to judge of. And so craving your lordships pardon for troubling you so long, we commend your lordships to God's goodness.

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## HIS LORDSHIP'S SPEECH IN THE PARLIAMENT, BEING LORD CHANCELLOR, TO THE SPEAKER'S EXCUSE.

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MR. SERJEANT RICHARDSON,

THE king hath heard and observed your grave and decent speech, tending to the excuse and disablement of yourself for the place of Speaker. In answer whereof, his majesty hath commanded me to say to you, that he doth in no sort admit of the same.

First, Because if the party's own judgment should be admitted in case of elections, touching himself, it would follow, that the most confident and over-weening persons would be received; and the most considerate men, and those that understand themselves best, would be rejected.

Secondly, His majesty doth so much rely upon the wisdoms and discretions of those of the house of commons, that have chosen you with an unanimous consent, that his majesty thinks not good to swerve from their opinion in that wherein themselves are principally interested.

Thirdly, You have disabled yourself in so good and decent a fashion, as the manner of your speech hath destroyed the matter of it.



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And therefore the king doth allow of the election, and admit you for speaker.

## TO THE SPEAKER'S ORATION.

Mr. Speaker,

The king hath heard and observed your eloquent discourse, containing much good matter, and much good will: wherein you must expect from me such an answer only as is pertinent to the occasion, and compassed by due respect of time.

I may divide that which you have said into four parts.

The first was a commendation, or laudative of monarchy.

The second was indeed a large field, containing a thankful acknowledgment of his majesty's benefits, attributes, and acts of government.

The third was some passages touching the institution and use of parliaments.

The fourth and last was certain petitions to his majesty on the behalf of the house and yourself.

For your commendation of monarchy, and preferring it before other estates, it needs no answer: the schools may dispute it; but time hath tried it, and we find it to be the best. Other states have curious frames soon put out of order: and they that are made fit to last, are not commonly fit to grow or spread: and contrariwise those that are made fit to spread and enlarge, are not fit to continue and endure. But monarchy is like a work of nature,

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well composed both to grow and to continue. From this I pass.

For the second part of your speech, wherein you did with no less truth than affection acknowledge the great felicity which we enjoy by his majesty's reign and government, his majesty hath commanded me to say unto you, that praises and thanksgivings he knoweth to be the true oblations of hearts and loving affections: but that which you offer him he will join with you, in offering it up to God, who is the author of all good; who knoweth also the uprightness of his heart; who he hopeth will continue and increase his blessings both upon himself and his posterity, and likewise upon his kingdoms and the generations of them.

But I for my part must say unto you, as the Grecian orator said long since in the like case: "Solus dignus harum rerum laudatur tempus;" Time is the only commender and encomiastic worthy of his majesty and his government.

Why time? For that in the revolution of so many years and ages, as have passed over this kingdom, notwithstanding, many noble and excellent effects were never produced until his majesty's days, but have been reserved as proper and peculiar unto them.

And because this is no part of a panegyric, but merely story, and that they be so many articles of honour fit to be recorded, I will only mention them, extracting part of them out of that you, Mr. Speaker, have said; they be in number eight.

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First, his majesty is the first, as you noted it well, that hath laid "lapis angularis," the corner-stone of these two mighty kingdoms of England and Scotland, and taken away the wall of separation: whereby his majesty is become the monarch of the most puissant and military nations of the world; and, if one of the ancient wise men was not deceived, iron commands gold.

Secondly, the plantation and reduction to civility of Ireland, the second island of the ocean Atlantic, did by God's providence wait for his majesty's times; being a work resembling indeed the works of the ancient heroes: no new piece of that kind in modern times.

Thirdly, This kingdom now first in his majesty's times hath gotten a lot or portion in the new world by the plantation of Virginia and the Summer Islands. And certainly it is with the kingdoms on earth as it is in the kingdom of heaven: sometimes a grain of mustard-seed proves a great tree. Who can tell?

Fourthly, His majesty hath made that truth which was before titularly, in that he hath verified the style of Defender of the Faith: wherein his majesty's pen hath been so happy, as though the deaf adder will not hear, yet he is charmed that he doth not hiss. I mean in the graver sort of those that have answered his majesty's writings.

Fifthly, It is most certain, that since the conquest ye cannot assign twenty years, which is the time that his majesty's reign now draws fast upon, of inward

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and outward peace. Insomuch, as the time of Queen Elizabeth, of happy memory, and always magnified for a peaceable reign, was nevertheless interrupted the first twenty years with a rebellion in England; and both first and last twenty years with rebellions in Ireland. And yet I know, that his majesty will make good both his words, as well that of "Ne-"mo me lacessit impune," as that other of "Beati "pacifici."

Sixthly, That true and primitive office of kings, which is, to sit in the gate and to judge the people, was never performed in like perfection by any of the king's progenitors: whereby his majesty hath shewed himself to be "lex loquens," and to sit upon the throne, not as a dumb statue, but as a speaking oracle.

Seventhly, For his majesty's mercy, as you noted it well, shew me a time wherein a king of this realm hath reigned almost twenty years, as I said, in his white robes without the blood of any peer of this kingdom: the axe turned once or twice towards a peer, but never struck.

Lastly, The flourishing of arts and sciences re-created by his majesty's countenance and bounty, was never in that height, especially that art of arts, divinity; for that we may truly to God's great glory confess, that since the primitive times, there were never so many stars, for so the Scripture calleth them, in that firmament.

These things, Mr. Speaker, I have partly chosen out of your heap, and are so far from being vulgar,

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as they are in effect singular and proper to his majesty and his times. So that I have made good, as I take it, my first assertion; that the only worthy commender of his majesty is time: which hath so set off his majesty's merits by the shadow of comparison, as it passeth the lustre or commendation of words.

How then shall I conclude? Shall I say, "O for-"tunatos nimium sua si bona norint?" No, for I see ye are happy in enjoying them, and happy again in knowing them. But I will conclude this part with that saying, turned to the right hand: "Si gratum "dixeris, omnia dixeris." Your gratitude contains in a word all that I can say to you touching this parliament.

Touching the third point of your speech, concerning parliaments, I shall need to say little: for there was never that honour done to the institution of parliament, that his majesty did it in his last speech, making it in effect the perfection of monarchy; for that although monarchy was the more ancient, and be independent, yet by the advice and assistance of parliament it is the stronger and the surer built.

And therefore I shall say no more of this point; but as you, Mr. Speaker, did well note, that when the king sits in parliament, and his prelates, peers, and commons attend him, he is in the exaltation of his orb; so I wish things may be so carried, that he may be then in greatest serenity and benignity of aspect; shining upon his people both in glory and grace. Now you know well, that the shining of the

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sun fair upon the ground, whereby all things exhilarate and do fructify, is either hindered by clouds above or mists below; perhaps by brambles and briers that grow upon the ground itself. All which I hope at this time will be dispelled and removed.

I come now to the last part of your speech, concerning the petitions: but before I deliver his majesty's answer respectively in particular, I am to speak to you some few words in general; wherein, in effect, I shall but glean, his majesty having so excellently and fully expressed himself.

For that, that can be spoken pertinently, must be either touching the subject or matter of parliament business; or of the manner and carriage of the same; or lastly of the time, and the husbanding and marshalling of time.

For the matters to be handled in parliament, they are either of church, state, laws, or grievances.

For the first two, concerning church or state, ye have heard the king himself speak; and as the Scripture saith, "Who is he that in such things shall "come after the king?" For the other two, I shall say somewhat, but very shortly.

For laws, they are things proper for your own element; and therefore therein ye are rather to lead than to be led. Only it is not amiss to put you in mind of two things; the one, that ye do not multiply or accumulate laws more than ye need. There is a wise and learned civilian that applies the curse of the prophet, "Pluet super eos laqueos," to multiplicity of laws: for they do but ensnare and entangle

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the people. I wish rather, that ye should either revive good laws that are fallen and discontinued, or provide against the slack execution of laws which are already in force; or meet with the subtile evasions from laws which time and craft hath undermined, than to make "novas creaturas legum," laws upon a new mould.

The other point, touching laws, is, that ye busy not yourselves too much in private bills, except it be in cases wherein the help and arm of ordinary justice is too short.

For grievances, his majesty hath with great grace and benignity opened himself. Nevertheless, the limitations, which may make up your grievances not to beat the air only, but to sort to a desired effect, are principally two. The one, to use his majesty's term, that ye do not hunt after grievances, such as may seem rather to be stirred here when ye are met, than to have sprung from the desires of the country: ye are to represent the people; ye are not to personate them.

The other, that ye do not heap up grievances, as if numbers should make a shew where the weight is small; or, as if all things amiss, like Plato's commonwealth, should be remedied at once. It is certain, that the best governments, yea, and the best men, are like the best precious stones, wherein every flaw or icicle or grain are seen and noted more than in those that are generally foul and corrupted.

Therefore contain yourselves within that moderation as may appear to bend rather to the effectual

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ease of the people, than to a discursive envy, or scandal upon the state.

As for the manner of carriage of parliament business, ye must know, that ye deal with a king that hath been longer king than any of you have been parliament men; and a king that is no less sensible of forms than of matter; and is as far from enduring diminution of majesty, as from regarding flattery or vain-glory; and a king that understandeth as well the pulse of the hearts of people as his own orb. And therefore, both let your grievances have a decent and reverend form and style; and to use the words of former parliaments, let them be "tanquam ge-"mitus columbæ," without pique or harshness: and on the other side, in that ye do for the king, let it have a mark of unity, alacrity, and affection; which will be of this force, that whatsoever ye do in substance, will be doubled in reputation abroad, as in a crystal glass.

For the time, if ever parliament was to be measured by the hour-glass, it is this; in regard of the instant occasion flying away irrecoverably. Therefore let your speeches in the house be the speeches of counsellors, and not of orators; let your committees tend to dispatch, not to dispute; and so marshal the times as the public business, especially the proper business of the parliament, be put first, and private bills be put last, as time shall give leave, or within the spaces of the public.

For the four petitions, his majesty is pleased to

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grant them all as liberally as the ancient and true custom of parliament doth warrant, and with the cautions that have ever gone with them; that is to say, That the privilege be not used for defrauding of creditors and defeating of ordinary justice: that liberty of speech turn not into licence, but be joined with that gravity and discretion, as may taste of duty and love to your sovereign, reverence to your own assembly, and respect to the matters ye handle: that your accesses be at such fit times, as may stand best with his majesty's pleasure and occasions: that mistakings and misunderstandings be rather avoided and prevented, as much as may be, than salved or cleared.

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## A SPEECH IN PARLIAMENT, UPON THE MOTION OF SUBSIDY.

39 OF ELIZABETH.

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And please you, Mr. Speaker, I must consider the time which is spent; but yet so, as I must consider also the matter, which is great. This great cause was, at the first, so materially and weightily propounded; and after, in such sort persuaded and enforced; and by him that last spake, so much time taken, and yet to good purpose; as I shall speak at a great disadvantage: but because it hath been always used, and the mixture of this house doth so require it, that in causes of this nature there be some speech and opinion, as well from persons of generality, as by persons of authority, I will say somewhat, and not much: wherein it shall not be fit for me to enter into, or to insist upon secrets, either of her majesty's coffers, or of her council; but my speech must be of a more vulgar nature.

I will not enter, Mr. Speaker, into a laudative speech of the high and singular benefits, which by her majesty's most politic and happy government we receive, thereby to incite you to a retribution; partly because no breath of man can set them forth worthily; and partly because, I know, her majesty in her magnanimity doth bestow her benefits like her freest patents, "absque aliquo inde reddendo;"

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not looking for any thing again, if it were in respect only of her particular, but love and loyalty. Neither will I now at this time put the case of this realm of England too precisely; how it standeth with the subject in point of payments to the crown: though I could make it appear by demonstration, what opinion soever be conceived, that never subjects were partakers of greater freedom and ease; and that whether you look abroad into other countries at this present time, or look back to former times in this our own country, we shall find an exceeding difference in matter of taxes; which now I reserve to mention; not so much in doubt to acquaint your ears with foreign strains, or to dig up the sepulchres of buried and forgotten impositions, which in this case, as by way of comparison, it is necessary you understand; but because speech in the house is fit to persuade the general point, and particularly is more proper and seasonable for the committee: neither will I make any observations upon her majesty's manner of expending and issuing treasure; being not upon excessive and exorbitant donatives; nor upon sumptuous and unnecessary triumphs, buildings, or like magnificence; but upon the preservation, protection, and honour of the realm: for I dare not scan upon her majesty's actions, which it becometh me rather to admire in silence, than to gloss or discourse upon them, though with never so good a meaning. Sure I am that the treasure that cometh from you to her majesty is but as a vapour which riseth from the earth, and gathereth into a

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cloud, and stayeth not there long; but upon the same earth it falleth again: and what if some drops of this do fall upon France or Flanders? It is like a sweet odour of honour and reputation to our nation throughout the world. But I will only insist upon the natural and inviolate law of preservation.

It is a truth, Mr. Speaker, and a familiar truth, that safety and preservation is to be preferred before benefit or increase, inasmuch as those counsels which tend to preservation seem to be attended with necessity: whereas those deliberations which tend to benefit, seem only accompanied with persuasion. And it is ever gain and no loss, when at the foot of the account there remains the purchase of safety. The prints of this are every where to be found: the patient will ever part with some of his blood to save and clear the rest: the sea-faring man will, in a storm, cast over some of his goods to save and assure the rest: the husbandman will afford some foot of ground for his hedge and ditch, to fortify and defend the rest. Why, Mr. Speaker, the disputer will, if he be wise and cunning, grant somewhat that seemeth to make against him, because he will keep himself within the strength of his opinion, and the better maintain the rest. But this place advertiseth me not to handle the matter in a common place. I will now deliver unto you that, which, upon a "pro-"batum est," hath wrought upon myself, knowing your affections to be like mine own. There hath fallen out, since the last parliament, four accidents

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or occurrents of state; things published and known to you all; by every one whereof it seemeth to me, in my vulgar understanding, that the danger of this realm is increased: which I speak not by way of apprehending fear, for I know I speak to English courages; but by way of pressing provision: for I do find, Mr. Speaker, that when kingdoms and states are entered into terms and resolutions of hostility one against the other; yet they are many times restrained from their attempts by four impediments.

The first is by this same "aliud agere;" when they have their hands full of other matters, which they have embraced, and serveth for a diversion of their hostile purposes.

The next is, when they want the commodity or opportunity of some places of near approach.

The third, when they have conceived an apprehension of the difficulty and churlishness of the enterprise, and that it is not prepared to their hand.

And the fourth is, when a state, through the age of the monarch, groweth heavy and indisposed to actions of great peril and motion: and this dull humour is not sharpened nor inflamed by any provocations or scorns. Now if it please you to examine, whether by removing the impediments, in these four kinds, the danger be not grown so many degrees nearer us by accidents, as I said, fresh, and all dated since the last parliament.

Soon after the last parliament, you may be

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pleased to remember how the French king revolted from his religion: whereby every man of common understanding may infer, that the quarrel between France and Spain is more reconcileable, and a greater inclination of affairs to a peace than before: which supposed, it followeth, Spain shall be more free to intend his malice against this realm.

Since the last parliament, it is also notorious in every man's knowledge and remembrance, that the Spaniards have possessed themselves of that avenue and place of approach for England, which was never in the hands of any king of Spain before; and that is Calais; which in true reason and consideration of estate of what value or service it is, I know not; but in common understanding, it is a knocking at our doors.

Since the last parliament also that ulcer of Ireland, which indeed brake forth before, hath run on and raged more: which cannot but be a great attractive to the ambition of the council of Spain, who by former experience know of how tough a complexion this realm of England is to be assailed; and therefore, as rheums and fluxes of humours, is like to resort to that part which is weak and distempered.

And lastly, it is famous now, and so will be many ages hence, how by these two sea-journeys we have braved him, and objected him to scorn: so that no blood can be so frozen or mortified, but must needs take flames of revenge upon so mighty a disgrace.

So as this concurrence of occurrents, all since our last assembly, some to deliver and free our enemies,

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some to advance and bring him on his way, some to tempt and allure him, some to spur on and provoke him, cannot but threaten an increase of our peril in great proportion.

Lastly, Mr. Speaker, I will but reduce to the memory of this house one other argument, for ample and large providing and supplying treasure: and this it is:

I see men do with great alacrity and spirit proceed when they have obtained a course they long wished for and were restrained from. Myself can remember both in this honourable assembly, and in all other places of this realm, how forward and affectionate men were to have an invasive war. Then we would say, a defensive war was like eating and consuming interest, and needs we would be adventurers and assailants: "Habes quod tota mente petisti:" shall we not now make it good? especially when we have tasted so prosperous fruit of our desires.

The first of these expeditions invasive was atchieved with great felicity, ravished a strong and famous port in the lap and bosom of their high countries; brought them to such despair as they fired themselves and their Indian fleet in sacrifice, as a good odour and incense unto God for the great and barbarous cruelties which they have committed upon the poor Indians, whither that fleet was sailing; disordered their reckonings so, as the next news we heard of was nothing but protesting of bills and breaking credit.

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The second journey was with notable resolution borne up against weather and all difficulties; and besides the success in amusing him and putting him to infinite charge, sure I am it was like a Tartar's or Parthian's bow, which shooteth backward, and had a most strong and violent effect and operation both in France and Flanders; so that our neighbours and confederates have reaped the harvest of it; and while the life-blood of Spain went inward to the heart, the outward limbs and members trembled, and could not resist. And lastly, we have a perfect account of all the noble and good blood that was carried forth, and of all our sea-walls and good shipping, without mortality of persons, wreck of vessels, or any manner of diminution. And these have been the happy effects of our so long and so much desired invasive war.

To conclude, Mr. Speaker, therefore, I doubt not but every man will consent that our gift must bear these two marks and badges: the one, of the danger of the realm by so great a proportion, since the last parliament, increased; the other, of the satisfaction we receive in having obtained our so earnest and ardent desire of an invasive war.



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# CHARGES.

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# THE JUDICIAL CHARGE OF SIR FRANCIS BACON, KNIGHT, THE KING'S SOLICITOR, UPON THE COMMISSION OF OYER AND TERMINER HELD FOR THE VERGE OF THE COURT.

"Lex vitiorum emendatrix, virtutum commendatrix est."

You are to know, and consider well the duty and service to which you are called, and whereupon you are by your oath charged. It is the happy estate and condition of the subject of this realm of England, that he is not to be impeached in his life, lands, or goods, by flying rumours, or wandering fames and reports, or secret and privy inquisitions; but by the oath and presentment of men of honest condition, in the face of justice. But this happy estate of the subject will turn to hurt and inconvenience, if those that hold that part which you are now to perform shall be negligent and remiss in doing their duty; for as of two evils it were better mens doings were looked into over-strictly and severely, than that there should be a notorious impunity of malefactors; as was well and wisely said of ancient time, "a man were better live where nothing is lawful, "than where all things are lawful." This therefore rests in your care and conscience, forasmuch as at you justice begins, and the law cannot pursue and

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chase offenders to their deserved fall, except you first put them up and discover them, whereby they may be brought to answer; for your verdict is not concluding to condemn, but it is necessary to charge, and without it the court cannot proceed to condemn.

Considering therefore that ye are the eye of justice, ye ought to be single, without partial affection; watchful, not asleep, or false asleep in winking at offenders, and sharp-sighted to proceed with understanding and discretion: for in a word, if you shall not present unto the court all such offences, as shall appear unto you either by evidence given in, or otherwise, mark what I say, of your own knowledge, which have been committed within the verge, which is as it were the limits of your survey, but shall smother and conceal any offence willingly, then the guiltiness of others will cleave to your consciences before God; and besides, you are answerable in some degree to the king and his law for such your default and suppression; and therefore take good regard unto it, you are to serve the king and his people, you are to keep and observe your oath, you are to acquit yourselves.

But there is yet more cause why you should take more special regard to your presentments, than any other grand juries within the counties of this kingdom at large: for as it is a nearer degree and approach unto the king, which is the fountain of justice and government, to be the king's servant, than to be the king's subject; so this commission ordained

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for the king's servants and household, ought in the execution of justice to be exemplary unto other places. David said, who was a king, "The wicked "man shall not abide in my house;" as taking knowledge that it was impossible for kings to extend their care, to banish wickedness over all their land or empire; but yet at least they ought to undertake to God for their house.

We see further, that the law doth so esteem the dignity of the king's settled mansion-house, as it hath laid unto it a plot of twelve miles round, which we call the verge, to be subject to a special and exempted jurisdiction depending upon his person and great officers. This is as a half-pace or carpet spread about the king's chair of estate, which therefore ought to be cleared and voided more than other places of the kingdom; for if offences should be shrouded under the king's wings, what hope is there of discipline and good justice in more remote parts? We see the sun, when it is at the brightest, there may be perhaps a bank of clouds in the north, or the west, or remote regions, but near his body few or none; for where the king cometh, there should come peace and order, and an awe and reverence in mens hearts.

And this jurisdiction was in ancient time executed, and since by statute ratified, by the lord steward with great ceremony, in the nature of a peculiar king's bench for the verge; for it was thought a kind of eclipsing to the king's honour, that where the king was, any justice should be

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sought but immediately from his own officers. But in respect that office was oft void, this commission hath succeeded, which change I do not dislike; for though it hath less state, yet it hath more strength legally: therefore I say, you that are a jury of the verge, should lead and give a pattern unto others in the care and conscience of your presentments.

Concerning the particular points and articles whereof you shall inquire, I will help your memory and mine own with order; neither will I load you, or trouble myself with every branch of several offences, but stand upon those that are principal and most in use: the offences therefore that you are to present are of four natures.

I. The first, such as concern God and his church.

II. The second, such as concern the king and his state.

III. The third, such as concern the king's people and are capital.

IV. The fourth, such as concern the king's people, not capital.

The service of almighty God, upon whose blessing the peace, safety, and good estate of king and kingdom doth depend, may be violated, and God dishonoured in three manners, by profanation, by contempt, and by division, or breach of unity.

First, if any man hath depraved or abused in word or deed the blessed sacrament, or disturbed the preacher or congregation in the time of divine ser-

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vice; or if any have maliciously stricken with weapon, or drawn weapon in any church or church-yard; or if any fair or market have been kept in any church-yard, these are profanations within the purview of several statutes, and those you are to present: for holy things, actions, times, and sacred places, are to be preserved in reverence and divine respect.

For contempts of our church and service, they are comprehended in that known name, which too many, if it pleased God, bear, recusancy; which offence hath many branches and dependencies; the wife-recusant, she tempts; the church papist, he feeds and relieves; the corrupt schoolmaster, he soweth tares; the dissembler, he conformeth and doth not communicate. Therefore if any person, man or woman, wife or sole, above the age of sixteen years, not having some lawful excuse, have not repaired to church according to the several statutes; the one, for the weekly, the other, for the monthly repair, you are to present both the offence and the time how long. Again, such as maintain, relieve, keep in service of livery recusants, though themselves be none, you are likewise to present; for these be like the roots of nettles, which sting not themselves, but bear and maintain the stinging leaves: so if any that keepeth a schoolmaster that comes not to church, or is not allowed by the bishop, for that infection may spread far: so such recusants as have been convicted and conformed, and have not received the sacrament once a year, for that is the touch-

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stone of their true conversion: and of these offences of recusancy take you special regard. Twelve miles from court is no region for such subjects. In the name of God, why should not twelve miles about the king's chair be as free from papist-recusants, as twelve miles from the city of Rome, the pope's chair, is from protestants? There be hypocrites and atheists, and so I fear there be amongst us; but no open contempt of their religion is endured. If there must be recusants, it were better they lurked in the country, than here in the bosom of the kingdom.

For matter of division and breach of unity, it is not without a mystery that Christ's coat had no seam, nor no more should the Church if it were possible. Therefore if any minister refuse to use the book of Common-prayer, or wilfully swerveth in divine service from that book; or if any person whatsoever do scandalize that book, and speak openly and maliciously in derogation of it; such men do but make a rent in the garment, and such are by you to be inquired of. But much more, such as are not only differing, but in a sort opposite unto it, by using a superstitious and corrupted form of divine service; I mean, such as say or hear mass.

These offences which I have recited to you, are against the service and worship of God: there remain two which likewise pertain to the dishonour of God; the one, is the abuse of his name by perjury; the other, is the adhering to God's declared enemies,

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evil and outcast spirits, by conjuration and witchcraft.

For perjury, it is hard to say whether it be more odious to God, or pernicious to man; for an oath, saith the apostle, is the end of controversies: if therefore that boundary of suits be taken away or mis-set, where shall be the end? Therefore you are to inquire of wilful and corrupt perjury in any of the king's courts, yea, of court-barons and the like, and that as well of the actors, as of the procurer and suborner.

For witchcraft, by the former law it was not death, except it were actual and gross invocation of evil spirits, or making covenant with them, or taking away life by witchcraft: but now by an act in his majesty's times, charms and sorceries in certain cases of procuring of unlawful love or bodily hurt, and some others, are made felony the second offence; the first being imprisonment and pillory.

And here I do conclude my first part concerning religion and ecclesiastical causes: wherein it may be thought that I do forget matters of supremacy, or of Jesuits, and seminaries, and the like, which are usually sorted with causes of religion: but I must have leave to direct myself according to mine own persuasion, which is, that, whatsoever hath been said or written on the other side, all the late statutes, which inflict capital punishment upon extollers of the pope's supremacy, deniers of the king's supremacy, Jesuits and seminaries, and other offenders of that nature, have for their principal scope, not the

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punishment of the error of conscience, but the repressing of the peril of the estate. This is the true spirit of these laws, and therefore I will place them under my second division, which is of offences that concern the king and his estate, to which now I come.

THESE offences therefore respect either the safety of the king's person, or the safety of his estate and kingdom, which though they cannot be dissevered in deed, yet they may be distinguished in speech. First then, if any have conspired against the life of the king, which God have in his custody! or of the queen's majesty, or of the most noble prince their eldest son; the very compassing and inward imagination thereof is high treason, if it can be proved by any fact that is overt: for in the case of so sudden, dark, and pernicious, and peremptory attempts, it were too late for the law to take a blow before it gives; and this high treason of all other is most heinous, of which you shall inquire, though I hope there be no cause.

There is another capital offence that hath an affinity with this, whereof you here within the verge are most properly to inquire; the king's privy-council are as the principal watch over the safety of the king, so as their safety is a portion of his: if therefore any of the king's servants within his cheque-roll, for to them only the law extends, have conspired the death of any the king's privy-council, this is felony, and thereof you shall inquire.

And since we are now in that branch of the

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king's person, I will speak also of the king's person by representation, and the treasons which touch the same.

The king's person and authority is represented in three things; in his seals, in his monies, and in his principal magistrates: if therefore any have counterfeited the king's great seal, privy seal, or seal manual; or counterfeited, clipped, or scaled his monies, or other monies current, this is high treason; so is it to kill certain great officers or judges executing their office.

We will now pass to those treasons which concern the safety of the king's estate, which are of three kinds, answering to three perils which may happen to an estate; these perils are, foreign invasion, open rebellion and sedition, and privy practice to alienate and estrange the hearts of the subjects, and to prepare them either to adhere to enemies, or to burst out into tumults and commotions of themselves.

Therefore if any person have solicited or procured any invasion from foreigners; or if any have combined to raise and stir the people to rebellion within the realm; these are high treasons, tending to the overthrow of the estate of this commonwealth, and to be inquired of.

The third part of practice hath divers branches, but one principal root in these our times, which is the vast and overspreading ambition and usurpation of the see of Rome; for the pope of Rome is, according to his late challenges and pretences, become

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a competitor and corrival with the king, for the hearts and obediences of the king's subjects: he stands for it, he sends over his love-tokens and brokers, under colour of conscience, to steal and win away the hearts and allegiances of the people, and to make them as fuel ready to take fire upon any his commandments.

This is that yoke which this kingdom hath happily cast off, even at such time when the popish religion was nevertheless continued, and that divers states, which are the pope's vassals, do likewise begin to shake off.

If therefore any person have maintained and extolled the usurped authority of the bishop of Rome within the king's dominions, by writing, preaching, or deed, advisedly, directly and maliciously; or if any person have published or put in use any of the pope's bulls or instruments of absolution; or if any person have withdrawn, and reconciled, any of the king's subjects from their obedience, or been withdrawn and reconciled; or if any subject have refused the second time to take the oath of supremacy lawfully tendered; or if any Jesuit or seminary come and abide within this realm; these are by several statutes made cases of high treason, the law accounting these things as preparatives, and the first wheels and secret motions of seditions and revolts from the king's obedience. Of these you are to inquire, both of the actors and of their abettors, comforters, receivers, maintainers; and concealers, which in some cases are traitors, as well as the prin-

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cipal, in some cases in "præmunire, in some other, in misprision of treason, which I will not stand to distinguish, and in some other, felony; as namely, that of the receiving and relieving of Jesuits and priests; the bringing in and dispersing of "Agnus "Dei's," crosses, pictures, or such trash, is likewise "præmunire:" and so is the denial to take the oath of supremacy the first time.

And because in the disposition of a state to troubles and perturbations, military men are most tickle and dangerous; therefore if any of the king's subjects go over to serve in foreign parts, and do not first endure the touch, that is, to take the oath of allegiance; or if he have borne office in any army, and do not enter into bond with sureties as is prescribed, this is made felony; and such as you shall inquire.

Lastly, because the vulgar people are sometimes led with vain and fond prophecies; if any such shall be published, to the end to move stirs or tumults, this is not felony, but punished by a year's imprisonment and loss of goods; and of this also shall you inquire.

You shall likewise understand that the escape of any prisoner committed for treason, is treason; whereof you are likewise to inquire.

Now come I to the third part of my division; that is, those offences which concern the king's people, and are capital; which nevertheless the law

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terms offences against the crown, in respect of the protection that the king hath of his people, and the interest he hath in them and their welfare; for touch them, touch the king. These offences are of three natures: the first concerneth the conservation of their lives; the second, of honour and honesty of their persons and families; and the third, of their substance.

First for life. I must say unto you in general, that life is grown too cheap in these times, it is set at the price of words, and every petty scorn and disgrace can have no other reparation; nay so many men's lives are taken away with impunity, that the very life of the law is almost taken away, which is the execution; and therefore though we cannot restore the life of those men that are slain, yet I pray let us restore the law to her life, by proceeding with due severity against the offenders; and most especially this plot of ground, which, as I said, is the king's carpet, ought not to be stained with blood, crying in the ears of God and the king. It is true nevertheless, that the law doth make divers just differences of life taken away; but yet no such differences as the wanton humours and braveries of men have under a reverend name of honour and reputation invented.

The highest degree is where such a one is killed, unto whom the offender did bear faith and obedience; as the servant to the master, the wife to the husband, the clerk to the prelate; and I shall ever

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add, for so I conceive of the law, the child to the father or the mother; and this the law terms petty treason.

The second is, Where a man is slain upon forethought malice, which the law terms murder; and it is an offence horrible and odious, and cannot be blanched, nor made fair, but foul.

The third is, Where a man is killed upon a sudden heat or affray, whereunto the law gives some little favour, because a man in fury is not himself, "ira furor brevis," wrath is a short madness; and the wisdom of law in his majesty's time hath made a subdivision of the stab given, where the party stabbed is out of defence, and had not given the first blow, from other manslaughters.

The fourth degree is, That of killing a man in the party's own defence, or by misadventure, which though they be not felonies, yet nevertheless the law doth not suffer them to go unpunished: because it doth discern some sparks of a bloody mind in the one, and of carelessness in the other.

And the fifth is, Where the law doth admit a kind of justification, not by plea, for a man may not, that hath shed blood, affront the law with pleading not guilty; but when the case is found by verdict, being disclosed upon the evidence; as where a man in the king's highway and peace is assailed to be murdered or robbed; or when a man defending his house, which is his castle, against unlawful violence; or when a sheriff or minister of justice is resisted in the execution of his office; or when the patient dieth



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in the chirurgeon's hands, upon cutting or otherwise: for these cases the law doth privilege, because of the necessity, and because of the innocency of the intention.

Thus much for the death of man, of which cases you are to inquire: together with the accessories before and after the fact.

For the second kind, which concerns the honour and chasteness of persons and families; you are to inquire of the ravishment of women, of the taking of women out of the possession of their parents or guardians against their will, or marrying them, or abusing them; of double marriages, where there was not first seven years absence, and no notice that the party so absent was alive, and other felonies against the honesty of life.

For the third kind, which concerneth men's substance, you shall inquire of burglaries, robberies, cutting of purses, and taking of any thing from the person: and generally other stealths, as well such as are plain, as those that are disguised, whereof I will by and by speak: but first I must require you to use diligence in presenting especially those purloinings and embezzlements, which are of plate, vessel, or whatsoever within the king's house. The king's house is an open place; it ought to be kept safe by law, and not by lock, and therefore needeth the more severity.

Now for coloured and disguised robberies; I will name two or three of them: the purveyor that takes without warrant, is no better than a thief, and it is

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felony. The servant that hath the keeping of his majesty's goods, and going away with them, though he came to the possession of them lawfully, it is felony. Of these you shall likewise inquire, principals and accessories. The voluntary escape of a felon is also felony.

For the last part, which is of offences concerning the people not capital, they are many: but I will select only such as I think fittest to be remembered unto you, still dividing, to give you the better light. They are of four natures.

1. The first, is matter of force and outrage.
2. The second, matter of fraud and deceit.
3. Public nuisances and grievances.
4. The fourth, breach and inobservance of certain wholesome and politic laws for government.

For the first, you shall inquire of riots and unlawful assemblies of forcible entries, and detainers with force; and properly of all assaults of striking, drawing weapon or other violence within the king's house, and the precincts thereof: for the king's house, from whence example of peace should flow unto the farthest parts of the kingdom, as the ointment of Aaron's head to the skirts of his garment, ought to be sacred and inviolate from force and brawls, as well in respect of reverence to the place, as in respect of danger of greater tumult, and of ill example to the whole kingdom; and therefore in that place all should be full of peace, order, regard, forbearance, and silence.

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Besides open force, there is a kind of force that cometh with an armed hand, but disguised, that is no less hateful and hurtful; and that is, abuse and oppression by authority. And therefore you shall inquire of all extortions, in officers and ministers; as sheriffs, bailiffs of hundreds, escheators, coroners, constables, ordinaries, and others, who by colour of office do poll the people.

For frauds and deceits, I do chiefly commend to your care the frauds and deceits in that which is the chief means of all just contract and permutation, which is, weights and measures; wherein, although God hath pronounced that a false weight is an abomination, yet the abuse is so common and so general, I mean of weights, and I speak upon knowledge and late examination, that if one were to build a church, he should need but false weights, and not seek them far, of the piles of brass to make the bells, and the weights of lead to make the battlements: and herein you are to make special inquiry, whether the clerk of the market within the verge, to whom properly it appertains, hath done his duty.

For nuisances and grievances, I will for the present only single out one, that ye present the decays of highways and bridges; for where the majesty of a king's house draws recourse and access, it is both disgraceful to the king, and diseaseful to the people, if the ways near-abouts be not fair and good; wherein it is strange to see the chargeable pavements and causeways in the avenues and entrances

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of towns abroad beyond the seas; whereas London, the second city at the least of Europe, in glory, in greatness, and in wealth, cannot be discerned by the fairness of the ways, though a little perhaps by the broadness of them, from a village.

For the last part, because I pass these things over briefly, I will make mention unto you of three laws.

1. The one, concerning the king's pleasure.
2. The second, concerning the people's food.
3. And the third, concerning wares and manufactures.

You shall therefore inquire of the lawful taking partridges and pheasants or fowl, the destruction of the eggs of the wild-fowl, the killing of hares or deer, and the selling of venison or hares: for that which is for exercise, and sport, and courtesy, should not be turned to gluttony and sale victual.

You shall also inquire whether bakers and brewers keep their assize, and whether as well they as butchers, innholders and victuallers, do sell that which is wholesome, and at reasonable prices, and whether they do link and combine to raise prices.

Lastly, you shall inquire whether the good statute be observed, whereby a man may have that he thinketh he hath, and not be abused or misserved in that he buys: I mean that statute that requireth that none use any manual occupation but such as have been seven years apprentice to it; which law being generally transgressed, makes the

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people buy in effect chaff for corn; for that which is mis-wrought will mis-wear.

There be many more things inquirable by you throughout all the former parts, which it were overlong in particular to recite. You may be supplied either out of your own experience, or out of such bills and informations as shall be brought unto you, or upon any question that you shall demand of the court, which will be ready to give you any farther direction as far as is fit: but these which I have gone through, are the principal points of your charge; which to present, you have taken the name of God to witness: and in the name of God perform it.

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## AN EXPLANATION WHAT MANNER OF PERSONS THOSE SHOULD BE, THAT ARE TO EXECUTE THE POWER OR ORDINANCE OF THE KING'S PREROGATIVE.

1. That absolute prerogative, according to the king's pleasure, revealed by his laws, may be exercised and executed by any subject, to whom power may be given by the king, in any place of judgment or commission, which the king by his law hath ordained: in which the judge subordinate cannot wrong the people, the law laying down a measure by which every judge should govern and execute; against which law if any judge proceed, he is by the law questionable, and punishable for his transgression.

In this nature are all the judges and commissioners of the land, no otherwise than in their courts, in which the king in person is supposed to sit, who cannot make that trespass, felony, or treason, which the law hath not made so to be, neither can punish the guilty by other punishment than the laws have appointed.

This prerogative or power as it is over all the subjects, so being known by the subjects, they are without excuse if they offend, and suffer no wrong if they be justly punished; and by this prerogative the king governeth all sorts of people according unto known will.

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2. The absolute prerogative, which is in kings according to their private will and judgment, cannot be executed by any subject; neither is it possible to give such power by commission; or fit to subject the people to the same; for the king, in that he is the substitute of God immediately, the father of his people, and head of the commonwealth, hath, by participation with God, and with his subjects, a discretion, judgment, and feeling love towards those, over whom he reigneth, only proper to himself, or to his place and person; who, seeing he cannot in any others infuse his wisdom, power, or gifts, which God, in respect of his place and charge, hath enabled him withal, can neither subordinate any other judge to govern by that knowledge, which the king can no otherwise, than by his known will, participate unto him: and if any such subordinate judge shall obtain commission according to the discretion of such judge to govern the people, that judge is bound to think that to be his soundest discretion, which the law, in which is the king's known will, sheweth unto him to be that justice which he ought to administer; otherwise he might seem to esteem himself above the king's law, who will not govern by it, or to have a power derived from other than from the king, which in the kingdom will administer justice contrary unto the justice of the land: neither can such a judge or commissioner under the name of the king's authority shroud his own high action, seeing the conscience and discretion of every man is particular and private to himself, so as the discretion of

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the judge cannot be properly or possibly the discretion or the conscience of the king; and if not his discretion, neither the judgment that is ruled by another man's only.

Therefore it may seem they rather desire to be kings, than to rule the people under the king, which will not administer justice by law, but by their own will.

3. This administration in a subject is derogative to the king's prerogative; for he administereth justice out of a private direction, being not capable of a general direction how to use the king's subjects at pleasure, in causes of particular respect; which if no other than the king himself can do, how can it be so that any man should desire that which is unfit and impossible, but that it must proceed out of some exorbitant affection? the rather, seeing such places be full of trouble and altogether unnecessary, no man will seek to thrust himself into them but for hopes of gain. Then is not any prerogative oppugned, but maintained, though it be desired, that every subordinate magistrate may not be made supreme, whereby he may seize upon the hearts of the people, take from the king the respect due unto him only, or judge the people otherwise than the king doth himself.

4. And although the prince be not bound to render any account to the law, which in person he administereth himself, yet every subordinate judge must render an account to the king, by his laws, how he hath administered justice in his place where

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he is set. But if he hath power to rule by private direction, for which there is no law, how can he be questioned by a law, if in his private censure he offends?

5. Therefore, it seemeth, that in giving such authority, the king ordaineth not subordinate magistrates, but absolute kings: and what doth the king leave to himself, who giveth so much to others, as he hath himself? Neither is there a greater bond to tie the subject to his prince in particular, than when he shall have recourse unto him, in his person, or in his power, for relief of the wrongs which from private men be offered; or for reformation of the oppressions which any subordinate magistrate shall impose upon the people. There can be no offence in the judge, who hath power to execute according to his discretion, when the discretion of any judge shall be thought fit to be limited, and therefore there can be therein no reformation; whereby the king in this useth no prerogative to gain his subjects right; then the subject is bound to suffer helpless wrong; and the discontent of the people is cast upon the king; the laws being neglected, which with their equity in all other causes and judgments, saving this, interpose themselves and yield remedy.

6. And to conclude, custom cannot confirm that which is any ways unreasonable of itself.

Wisdom will not allow that, which is many ways dangerous, and no ways profitable.

Justice will not approve that government, where it cannot be but wrong must be committed.

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Neither can there be any rule by which to try it, nor means of reformation of it.

7. Therefore, whosoever desireth government must seek such as he is capable of, not such as seemeth to himself most easy to execute; for it is apparent, that it is easy to him that knoweth not law nor justice, to rule as he listeth, his will never wanting a power to itself: but it is safe and blameless, both for the judge and people, and honour to the king, that judges be appointed who know the law, and that they be limited to govern according to the law.

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# THE CHARGE OF SIR FRANCIS BACON, KNIGHT, THE KING'S ATTORNEY-GENERAL, TOUCHING DUELS. UPON AN INFORMATION IN THE STAR-CHAMBER AGAINST PRIEST AND WRIGHT.

With the DECREE of the Star-Chamber in the same Cause.

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MY LORDS,

I THOUGHT it fit for my place, and for these times, to bring to hearing before your lordships some cause touching private duels, to see if this court can do any good to tame and reclaim that evil which seems unbridled. And I could have wished that I had met with some greater persons, as a subject for your censure, both because it had been more worthy of this presence, and also the better to have shewed the resolution myself hath to proceed without respect of persons in this business: but finding this cause on foot in my predecessor's time, and published and ready for hearing, I thought to lose no time in a mischief that groweth every day: and besides, it passes not amiss sometimes in government, that the greater sort be admonished by an example made in the meaner, and the dog to be beaten before the lion. Nay, I should think, my lords, that men of

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birth and quality will leave the practice when it begins to be vilified, and come so low as to barber-surgeons and butchers, and such base mechanical persons.

And for the greatness of this presence, in which I take much comfort, both as I consider it in itself, and much more in respect it is by his majesty's direction, I will supply the meanness of the particular cause, by handling of the general point: to the end, that by the occasion of this present cause, both my purpose of prosecution against duels, and the opinion of the court, without which I am nothing, for the censure of them, may appear, and thereby offenders in that kind may read their own case, and know what they are to expect; which may serve for a warning until example may be made in some greater person: which I doubt the times will but too soon afford.

Therefore before I come to the particular, whereof your lordships are now to judge, I think it time best spent to speak somewhat:

First, Of the nature and greatness of this mischief.

Secondly, Of the causes and remedies.

Thirdly, Of the justice of the law of England, which some stick not to think defective in this matter.

Fourthly, Of the capacity of this court, where certainly the remedy of this mischief is best to be found.

And fifthly, Touching mine own purpose and

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resolution, wherein I shall humbly crave your lordships aid and assistance.

For the mischief itself, it may please your lordships to take into your consideration that when revenge is once extorted out of the magistrates hands, contrary to God's ordinance, "Mihi vindicta, ego "retribuam," and every man shall bear the sword, not to defend, but to assail; and private men begin once to presume to give law to themselves, and to right their own wrongs, no man can foresee the danger and inconveniences that may arise and multiply thereupon. It may cause sudden storms in court, to the disturbance of his majesty, and unsafety of his person: it may grow from quarrels to bandying, and from bandying to trooping, and so to tumult and commotion; from particular persons to dissension of families and alliances; yea, to national quarrels, according to the infinite variety of accidents, which fall not under foresight: so that the state by this means shall be like to a distempered and imperfect body, continually subject to inflammations and convulsions.

Besides, certainly, both in divinity and in policy, offences of presumption are the greatest. Other offences yield and consent to the law that it is good, not daring to make defence, or to justify themselves; but this offence expressly gives the law an affront, as if there were two laws, one a kind of gown-law, and the other a law of reputation, as they term it; so that Paul's and Westminster, the pulpit and the courts of justice, must give place to the law, as the

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king speaketh in his proclamation, of ordinary tables, and such reverend assemblies: the year-books, and statute-books must give place to some French and Italian pamphlets, which handle the doctrine of duels, which if they be in the right, "transeamus "ad illa," let us receive them, and not keep the people in conflict and distraction between two laws.

Again, my lords, it is a miserable effect, when young men full of towardness and hope, such as the poets call "auroræ filii," sons of the morning, in whom the expectation and comfort of their friends consisteth, shall be cast away and destroyed in such a vain manner; but much more it is to be deplored when so much noble and genteel blood should be spilt upon such follies, as, if it were adventured in the field in service of the king and realm, were able to make the fortune of a day, and to change the fortune of a kingdom. So as your lordships see what a desperate evil this is; it troubleth peace, it dis-furnisheth war, it bringeth calamity upon private men, peril upon the state, and contempt upon the law.

Touching the causes of it; the first motive, no doubt, is a false and erroneous imagination of honour and credit: and therefore the king, in his last proclamation, doth most aptly and excellently call them bewitching duels. For, if one judge of it truly, it is no better than a sorcery that enchanteth the spirits of young men, that bear great minds with a false shew, "species falsa;" and a kind of satanical illu-

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sion and apparition of honour against religion, against law, against moral virtue, and against the precedents and examples of the best times and valiantest nations; as I shall tell you by and by, when I shall shew you the law of England is not alone in this point.

But then the seed of this mischief being such, it is nourished by vain discourses, and green and unripe conceits, which nevertheless have so prevailed, as though a man were staid and sober-minded, and a right believer touching the vanity and unlawfulness of these duels; yet the stream of vulgar opinion is such, as it imposeth a necessity upon men of value to conform themselves, or else there is no living or looking upon men's faces: so that we have not to do, in this case, so much with particular persons, as with unsound and depraved opinions, like the dominations and spirits of the air which the Scripture speaketh of.

Hereunto may be added, that men have almost lost the true notion and understanding of fortitude and valour. For fortitude distinguisheth of the grounds of quarrels whether they be just; and not only so, but whether they be worthy; and setteth a better price upon men's lives than to bestow them idly: nay, it is weakness and dis-esteem of a man's self, to put a man's life upon such liedger performances: a man's life is not to be trifled away; it is to be offered up and sacrificed to honourable services, public merits, good causes, and noble adventures. It is in expense of blood as it is in expense of money; it is no liberality to make a profusion of money

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upon every vain occasion, nor no more it is fortitude to make effusion of blood, except the cause be of worth. And thus much for the causes of this evil.

For the remedies, I hope some great and noble person will put his hand to this plough, and I wish that my labours of this day may be but forerunners to the work of a higher and better hand. But yet to deliver my opinion as may be proper for this time and place, there be four things that I have thought on, as the most effectual for the repressing of this depraved custom of particular combats.

The first is, that there do appear and be declared a constant and settled resolution in the state to abolish it. For this is a thing, my lords, must go down at once, or not at all; for then every particular man will think himself acquitted in his reputation, when he sees that the state takes it to heart, as an insult against the king's power and authority, and thereupon hath absolutely resolved to master it; like unto that which was set down in express words in the edict of Charles IX. of France touching duels, that the king himself took upon him the honour of all that took themselves grieved or interested for not having performed the combat. So must the state do in this business: and in my conscience there is none that is but of a reasonable sober disposition, be he never so valiant, except it be some furious person that is like a firework, but will be glad of it, when he shall see the law and rule



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of state disinterest him of a vain and unnecessary hazard.

Secondly, Care must be taken that this evil be no more cockered, nor the humour of it fed; wherein I humbly pray your lordships that I may speak my mind freely, and yet be understood aright. The proceedings of the great and noble commissioners martial I honour and reverence much, and of them I speak not in any sort; but I say the compounding of quarrels, which is otherwise in use by private noblemen and gentlemen, it is so punctual, and hath such reference and respect unto the received conceits, what's before-hand, and what's behind-hand, and I cannot tell what, as without all question it doth, in a fashion, countenance and authorize this practice of duels, as if it had in it somewhat of right.

Thirdly, I must acknowledge that I learned out of the king's last proclamation, the most prudent and best applied remedy for this offence, if it shall please his majesty to use it, that the wit of man can devise. This offence, my lords, is grounded upon a false conceit of honour, and therefore it would be punished in the same kind, "in eo quis rectissime plectitur, in "quo peccat." The fountain of honour is the king and his aspect, and the access to his person continueth honour in life, and to be banished from his presence is one of the greatest eclipses of honour that can be; if his majesty shall be pleased that when this court shall censure any of these offences in persons of eminent quality, to add this out of his own power

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and discipline, that these persons shall be banished and excluded from his court for certain years, and the courts of his queen and prince, I think there is no man that hath any good blood in him will commit an act that shall cast him into that darkness, that he may not behold his sovereign's face.

Lastly, and that which more properly concerneth this court: we see, my lords, the root of this offence is stubborn, for it despiseth death, which is the utmost of punishments; and it were a just but a miserable severity, to execute the law without all remission or mercy, where the case proveth capital. And yet the late severity in France was more, where, by a kind of martial law, established by ordinance of the king and parliament, the party that had slain another was presently had to the gibbet, insomuch as gentlemen of great quality were hanged, their wounds bleeding, lest a natural death should prevent the example of justice. But, my lords, the course which we shall take is of far greater lenity, and yet of no less efficacy; which is to punish, in this court, all the middle acts and proceedings which tend to the duel, which I will enumerate to you anon, and so to hew and vex the root in the branches, which, no doubt, in the end will kill the root, and yet prevent the extremity of law.

Now for the law of England, I see it excepted to, though ignorantly, in two points:

The one, that it should make no difference between an insidious and foul murder, and the killing of a man upon fair terms, as they now call it.

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The other, That the law hath not provided sufficient punishment, and reparations, for contumely of words, as the lye, and the like.

But these are no better than childish novelties against the divine law, and against all laws in effect, and against the examples of all the bravest and most virtuous nations of the world.

For first, for the law of God, there is never to be found any difference made in homicide, but between homicide voluntary, and involuntary, which we term misadventure. And for the case of misadventure itself, there were cities of refuge; so that the offender was put to his flight, and that flight was subject to accident, whether the revenger of blood should overtake him before he had gotten sanctuary or no. It is true that our law hath made a more subtle distinction between the will inflamed and the will advised, between manslaughter in heat and murder upon prepensed malice or cold blood, as the soldiers call it, an indulgence not unfit for a choleric and warlike nation; for it is true, "ira furor brevis;" a man in fury is not himself. This privilege of passion the ancient Roman law restrained, but to a case: that was, if the husband took the adulterer in the manner; to that rage and provocation only it gave way, that an homicide was justifiable. But for a difference to be made in case of killing and destroying man, upon a fore-thought purpose, between foul and fair, and as it were between single murder and vied murder, it is but a monstrous child of this latter age, and there is no shadow of it in

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any law divine or human. Only it is true, I find in the Scripture that Cain inticed his brother into the field and slew him treacherously; but Lamech vaunted of his manhood that he would kill a young man, and if it were to his hurt: so as I see no difference between an insidious murder and a braving or presumptuous murder, but the difference between Cain and Lamech.

As for examples in civil states, all memory doth consent, that Græcia and Rome were the most valiant and generous nations of the world; and, that which is more to be noted, they were free estates, and not under a monarchy; whereby a man would think it a great deal the more reason that particular persons should have righted themselves; and yet they had not this practice of duels, nor any thing that bare shew thereof: and sure they would have had it, if there had been any virtue in it. Nay, as he saith, "Fas est et ab hoste doceri." It is memorable, that is reported by a counsellor ambassador of the emperor's, touching the censure of the Turks of these duels: there was a combat of this kind performed by two persons of quality of the Turks, wherein one of them was slain, the other party was convented before the council of bashaws; the manner of the reprehension was in these words: "How durst you "undertake to fight one with the other? Are there "not Christians enough to kill? Did you not know "that whether of you shall be slain, the loss would "be the Great Seignior's?" So as we may see that the most warlike nations, whether generous or bar-

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barous, have ever despised this wherein now men glory.

It is true, my lords, that I find combats of two natures authorized, how justly I will not dispute as to the latter of them.

The one, when upon the approaches of armies in the face one of the other, particular persons have made challenges for trial of valours in the field upon the public quarrel.

This the Romans called " Pugna per provoca-" tionem." And this was never, but either between the generals themselves, who are absolute, or between particulars by licence of the generals; never upon private authority. So you see David asked leave when he fought with Goliah; and Joab, when the armies were met, gave leave, and said, " Let the " young men play before us." And of this kind was that famous example in the wars of Naples, between twelve Spaniards and twelve Italians, where the Italians bare away the victory; besides other infinite like examples worthy and laudable, sometimes by singles, sometimes by numbers.

The second combat is a judicial trial of right, where the right is obscure, introduced by the Goths and the Northern nations, but more anciently entertained in Spain; and this yet remains in some cases as a divine lot of battle, though controverted by divines, touching the lawfulness of it: so that a wise writer saith, " Taliter pugnantes videntur tentare " Deum, quia hoc volunt ut Deus ostendat et faciat " miraculum, ut justam causam habens victor efficia-

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"tur, quod sæpe contra accidit." But howsoever it be, this kind of fight taketh its warrant from law. Nay, the French themselves, whence this folly seemeth chiefly to have flown, never had it but only in practice and toleration, and never as authorized by law; and yet now of late they have been fain to purge their folly with extreme rigour, in so much as many gentlemen left between death and life in the duels, as I spake before, were hastened to hanging with their wounds bleeding. For the state found it had been neglected so long, as nothing could be thought cruelty which tended to the putting of it down.

As for the second defect pretended in our law, that it hath provided no remedy for lies and fillips, it may receive like answer. It would have been thought a madness amongst the ancient lawgivers, to have set a punishment upon the lie given, which in effect is but a word of denial, a negative of another's saying. Any lawgiver, if he had been asked the question, would have made Solon's answer: that he had not ordained any punishment for it, because he never imagined the world would have been so fantastical as to take it so highly. The civilians, they dispute whether an action of injury lie for it, and rather resolve the contrary. And Francis the First of France, who first set on and stamped this disgrace so deep, is taxed by the judgment of all wise writers for beginning the vanity of it; for it was he, that when he had himself given the lie and defy to the emperor, to make it current in the

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world, said in a solemn assembly, "That he was no "honest man that would bear the lie:" which was the fountain of this new learning.

As for words of reproach and contumely, whereof the lie was esteemed none, it is not credible, but that the orations themselves are extant, what extreme and exquisite reproaches were tossed up and down in the senate of Rome and the places of assembly, and the like in Græcia, and yet no man took himself fouled by them, but took them but for breath, and the style of an enemy, and either despised them or returned them; but no blood spilt about them.

So of every touch or light blow of the person, they are not in themselves considerable, save that they have got upon them the stamp of a disgrace, which maketh these light things pass for great matter. The law of England, and all laws, hold these degrees of injury to the person, slander, battery, maim, and death; and if there be extraordinary circumstances of despite and contumely, as in case of libels, and bastinadoes, and the like, this court taketh them in hand, and punisheth them exemplarily. But for this apprehension of a disgrace, that a fillip to the person should be a mortal wound to the reputation, it were good that men did hearken unto the saying of Consalvo, the great and famous commander, that was wont to say, a gentleman's honour should be "de tela crassiore," of a good strong warp or web, that every little thing should not catch in it; when as now it seems they are but of cob-web lawn,

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or such light stuff, which certainly is weakness, and not true greatness of mind, but like a sick man's body, that is so tender that it feels every thing. And so much in maintenance and demonstration of the wisdom and justice of the law of the land.

For the capacity of this court, I take this to be a ground infallible: that wheresoever an offence is capital, or matter of felony, though it be not acted, there the combination or practice tending to that offence is punishable in this court as a high misdemeanor. So practice to impoison, though it took no effect; way-laying to murder, though it took no effect, and the like; have been adjudged heinous misdemeanors punishable in this court. Nay, inceptions and preparations in inferior crimes, that are not capital, as suborning and preparing of witnesses that were never deposed, or deposed nothing material, have likewise been censured in this court, as appeareth by the decree in Garnon's case.

Why then, the major proposition being such, the minor cannot be denied: for every appointment of the field is but combination and plotting of murder; let them gild it how they list, they shall never have fairer terms of me in place of justice. Then the conclusion followeth, that it is a case fit for the censure of the court. And of this there be precedents in the very point of challenge.

It was the case of Wharton plaintiff, against Ellekar and Acklam defendants, where Acklam being a follower of Ellekar's, was censured for carrying a challenge from Ellekar to Wharton, though

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the challenge was not put in writing, but delivered only by word of message; and there are words in the decree, that such challenges are to the subversion of government.

These things are well known, and therefore I needed not so much to have insisted upon them, but that in this case I would be thought not to innovate any thing of my own head, but to follow the former precedents of the court, though I mean to do it more throughly, because the time requires it more.

Therefore now to come to that which concerneth my part; I say, that by the favour of the king and the court, I will prosecute in this court in the cases following.

If any man shall appoint the field, though the fight be not acted or performed.

If any man shall send any challenge in writing, or any message of challenge.

If any man carry or deliver any writing or message of challenge.

If any man shall accept or return a challenge.

If any man shall accept to be a second in a challenge of either side.

If any man shall depart the realm, with intention and agreement to perform the fight beyond the seas.

If any man shall revive a quarrel by any scandalous bruits or writings, contrary to a former proclamation published by his majesty in that behalf.

Nay, I hear there be some counsel learned of duels, that tell young men when they are before-

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hand, and when they are otherwise, and thereby incense and incite them to the duel, and make an art of it; I hope I shall meet with some of them too: and I am sure, my lords, this course of preventing duels in nipping them in the bud, is fuller of clemency and providence than the suffering them to go on, and hanging men with their wounds bleeding, as they did in France.

To conclude, I have some petitions to make first to your lordship, my lord chancellor, that in case I be advertised of a purpose in any to go beyond the sea to fight, I may have granted his majesty's writ of "Ne exeat regnum" to stop him, for this giant bestrideth the sea, and I would take and snare him by the foot on this side; for the combination and plotting is on this side, though it should be acted beyond sea. And your lordship said notably the last time I made a motion in this business, that a man may be as well "fur de se," as "felo de se," if he steal out of the realm for a bad purpose; as for the satisfying of the words of the writ, no man will doubt but he doth "machinari contra coronam," as the words of the writ be, that seeketh to murder a subject; for that is ever "contra coronam et dignitatem." I have also a suit to your lordships all in general, that for justice sake, and for true honour's sake, honour of religion, law, and the king our master, against this fond and false disguise or puppetry of honour, I may in my prosecution, which it is like enough, may sometimes stir coals, which I esteem not for my particular, but as it may hinder the good service, I

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may, I say, be countenanced and assisted from your lordships. Lastly, I have a petition to the nobles and gentlemen of England, that they would learn to esteem themselves at a just price. "Non hos "quæsitum munus in usus," their blood is not to be spilt like water or a vile thing; therefore that they would rest persuaded there cannot be a form of honour, except it be upon a worthy matter. But for this, "ipsi viderint," I am resolved. And thus much for the general, now to the present case.

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## THE DECREE OF THE STAR-CHAMBER AGAINST DUELS.

### IN CAMERA STELLATA CORAM CONCILIO IBIDEM,

26 JANUARII, 11 JAC. REGIS.

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PRESENT,

George Lord Archbishop of Canterbury.
Thomas Lord Ellesmere, Lord Chancellor of England.
Henry Earl of Northampton, Lord Privy Seal.
Charles Earl of Nottingham, Lord High Admiral of England.
Thomas E. of Suffolk, Lord Chamberlain.
John Lord Bishop of London.
Edward Lord Zouch.
William Lord Knolles, Treasurer of the Household.
Edward Lord Wotton, Comptroller.
John Lord Stanhope, Vice-chamberlain.
Sir Edward Coke, Knight Lord Chief Justice of England.
Sir Henry Hobart, Knight, Lord Chief Justice of the Common-pleas.
Sir Julius Cæsar, Knight, Chancellor of the Exchequer.

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This day was heard and debated at large the several matters of informations here exhibited by Sir Francis Bacon, knight, his majesty's attorney-general, the one against William Priest, gentleman, for writing and sending a letter of challenge, together with a stick, which should be the length of the weapon: and the other against Richard Wright, esquire, for carrying and delivering the said letter and stick unto

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the party challenged, and for other contemptuous and insolent behaviour used before the justices of the peace in Surry at their sessions, before whom he was convented. Upon the opening of which cause, his highness's said attorney-general did first give his reason to the court, why, in a case which he intended should be a leading case for the repressing of so great a mischief in the commonwealth, and concerning an offence which reigneth chiefly amongst persons of honour and quality, he should begin with a cause which had passed between so mean persons as the defendants seemed to be; which he said was done, because he found this cause ready published, and in so growing an evil, he thought good to lose no time; whereunto he added, that it was not amiss sometimes to beat the dog before the lion; saying farther, that he thought it would be some motive for persons of high birth and countenance to leave it, when they saw it was taken up by base and mechanical fellows; but concluded, that he resolved to proceed without respect of persons for the time to come, and for the present to supply the meanness of this particular case by insisting the longer upon the general point.

Wherein he did first express unto the court at large the greatness and dangerous consequence of this presumptuous offence, which extorted revenge out of the magistrate's hands, and gave boldness to private men to be lawgivers to themselves; the rather because it is an offence that doth justify itself against the law, and plainly gives the law an affront;

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describing also the miserable effect which it draweth upon private families, by cutting off young men, otherwise of good hope; and chiefly the loss of the king and the common-wealth, by the casting away of much good blood, which, being spent in the field upon occasion of service, were able to continue the renown which this kingdom hath obtained in all ages of being esteemed victorious.

Secondly, his majesty's said attorney-general did discourse touching the causes and remedies of this mischief that prevailed so in these times; shewing the ground thereof to be a false and erroneous imagination of honour and credit, according to the term which was given to those duels by a former proclamation of his majesty's, which called them betwitching duels, for that it was no better than a kind of sorcery, which enchanteth the spirits of young men, which bear great minds, with a shew of honour in that which is no honour indeed; being against religion, law, moral virtue, and against the precedents and examples of the best times, and valiantest nations of the world; which though they excelled for prowess and military virtue in a public quarrel, yet know not what these private duels meant; saying farther, that there was too much way and countenance given unto these duels, by the course that is held by noblemen and gentlemen in compounding of quarrels, who use to stand too punctually upon conceits of satisfactions and distinctions, what is beforehand, and what behind-hand, which do but feed the humour: adding likewise, that it was no fortitude to

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shew valour in a quarrel, except there were a just and worthy ground of the quarrel; but that it was weakness to set a man's life at so mean a rate as to bestow it upon trifling occasions, which ought to be rather offered up and sacrificed to honourable services, public merits, good causes, and noble adventures. And as concerning the remedies, he concluded, that the only way was, that the state would declare a constant and settled resolution to master and put down this presumption in private men, of whatsover degree, of righting their own wrongs, and this to do at once; for that then every particular man would think himself acquitted in his reputation, when that he shall see that the state takes his honour into their own hands, and standeth between him and any interest or prejudice, which he might receive in his reputation for obeying: whereunto he added likewise, that the wisest and mildest way to suppress these duels was rather to punish in this court all the acts of preparation, which did in any wise tend to the duels, as this of challenges and the like, and so to prevent the capital punishment, and to vex the root in the branches, than to suffer them to run on to the execution, and then to punish them capitally after the manner of France: where of late times gentlemen of great quality that had killed others in duel, were carried to the gibbet with their wounds bleeding, lest a natural death should keep them from the example of justice.

Thirdly, his majesty's said attorney-general did, by many reasons which he brought and alleged, free

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the law of England from certain vain and childish exceptions, which are taken by these duellists: the one, because the law makes no difference in punishment between an insidious and foul murder, and the killing a man upon challenge and fair terms, as they call it. The other, for that the law hath not provided sufficient punishment and reparation for contumely of words, as the lie, and the like; wherein his majesty's said attorney-general did shew, by many weighty arguments and examples, that the law of England did consent with the law of God and the law of nations in both those points, and that this distinction in murder between foul and fair, and this grounding of mortal quarrels upon uncivil and reproachful words, or the like disgraces, was never authorised by any law or ancient examples; but it is a late vanity crept in from the practice of the French, who themselves since have been so weary of it, as they have been forced to put it down with all severity.

Fourthly, His majesty's said attorney-general did prove unto the court by rules of law and precedents, that this court hath capacity to punish sending and accepting of challenges, though they were never acted nor executed; taking for a ground infallible, that wheresoever an offence is capital or matter of felony, if it be acted and performed, there the conspiracy, combination, or practice tending to the same offence, is punishable as a high misdemeanour, although they never were performed. And therefore, that practice to impoison, though it took no effect,



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and the like, have been punished in this court; and cited the precedent in Garnon's case, wherein a crime of a much inferior nature, the suborning and preparing of witnesses, though they never were deposed, or deposed nothing material, was censured in this court: whereupon he concluded, that for as much as every appointment of the field is in law but a combination of plotting of a murder, howsoever men might gild it; that therefore it was a case fit for the censure of this court: and therein he vouched a precedent in the very point, that in a case between Wharton plaintiff, and Ellekar and Acklam defendants; Acklam being a follower of Ellekar, had carried a challenge unto Wharton; and although it were by word of mouth, and not by writing, yet it was severely censured by the court; the decree having words that such challenges do tend to the subversion of government. And therefore his majesty's attorney willed the standers-by to take notice that it was no innovation that he brought in, but a proceeding according to former precedents of the court, although he purposed to follow it more thoroughly than had been done ever heretofore, because the times did more and more require it. Lastly, his majesty's said attorney-general did declare and publish to the court in several articles, his purpose and resolution in what cases he did intend to prosecute offences of that nature in this court; that is to say, that if any man shall appoint the field, although the fight be not acted or performed; if any man shall send any challenge in writing or message of challenge; if any man

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shall carry or deliver any writing or message of challenge; if any man shall accept or return a challenge; if any man shall accept to be a second in a challenge of either part; if any man shall depart the realm with intention and agreement to perform the fight beyond the seas; if any man shall revive a quarrel by any scandalous bruits or writings contrary to a former proclamation, published by his majesty in that behalf; that in all these cases his majesty's attorney-general, in discharge of his duty, by the favour and assistance of his majesty and the court, would bring the offenders, of what state or degree soever, to the justice of this court, leaving the lords commissioners martial to the more exact remedies: adding farther, that he heard there were certain counsel learned of duels, that tell young men when they are before-hand, and when they are otherwise, and did incense and incite them to the duel, and made an art of it; who likewise should not be forgotten. And so concluded with two petitions, the one in particular to the lord chancellor, that in case advertisement were given of a purpose in any to go beyond the seas to fight, there might be granted his majesty's writ of "Ne exeat regnum" against him; and the other to the lords in general, that he might be assisted and countenanced in this service.

After which opening and declaration of the general cause, his majesty's said attorney did proceed to set forth the proofs of this particular challenge and offence now in hand, and brought to the judgment and censure of this honourable court; where-

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upon it appeared to this honourable court by the confession of the said defendant priest himself, that he having received some wrong and disgrace at the hands of one Hutchest, did thereupon, in revenge thereof, write a letter to the said Hutchest, containing a challenge to fight with him at single rapier, which letter the said priest did deliver to the said defendant Wright, together with a stick containing the length of the rapier, wherewith the said priest meant to perform the fight. Whereupon the said Wright did deliver the said letter to the said Hutchest and did read the same unto him; and after the reading thereof, did also deliver to the said Hutchest the said stick, saying, that the same was the length of the weapon mentioned in the said letter. But the said Hutchest, dutifully respecting the preservation of his majesty's peace, did refuse the said challenge, whereby no farther mischief did ensue thereupon.

This honourable court, and all the honourable presence this day sitting, upon grave and mature deliberation, pondering the quality of these offences, they generally approved the speech and observations of his majesty's said attorney-general, and highly commended his great care and good service in bringing a cause of this nature to public punishment and example, and in professing a constant purpose to go on in the like course with others: letting him know, that he might expect from the court all concurrence and assistance in so good a work. And thereupon the court did by their several opinions

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and sentences declare how much it imported the peace and prosperous estate of his majesty and his kingdom to nip this practice and offence of duels in the head, which now did overspread and grow universal, even among mean persons, and was not only entertained in practice and custom, but was framed into a kind of art and precepts: so that, according to the saying of the Scripture, "mischief is imagined "like a law." And the court with one consent did declare their opinions: That by the ancient law of the land, all inceptions, preparations and combinations to execute unlawful acts, though they never be performed, as they be not to be punished capitally, except it be in case of treason, and some other particular cases of statute law; so yet they are punishable as misdemeanors and contempts: and that this court was proper for offences of such a nature; especially in this case, where the bravery and insolency of the times are such as the ordinary magistrates and justices that are trusted with the preservation of the peace, are not able to master and repress those offences, which were by the court at large set forth, to be not only against the law of God, to whom, and his substitutes, all revenge belongeth, as part of his prerogative, but also against the oath and duty of every subject unto his majesty, for that the subject doth swear unto him by the ancient law allegiance of life and member; whereby it is plainly inferred, that the subject hath no disposing power over himself of life and member to be spent or ventured according to his own pas-

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sions and fancies, insomuch as the very practice of chivalry in justs and tournays, which are but images of martial actions, appear by ancient precedents not to be lawful without the king's licence obtained. The court also noted, that these private duels or combats were of another nature from the combats which have been allowed by the law as well of this land as of other nations for the trial of rights or appeals. For that those combats receive direction and authority from the law; whereas these contrariwise spring only from the unbridled humours of private men. And as for the pretence of honour, the court much misliking the confusion of degrees which is grown of late, every man assuming unto himself the term and attribute of honour, did utterly reject and condemn the opinion that the private duel, in any person whatsoever, had any grounds of honour; as well because nothing can be honourable that is not lawful, and that it is no magnanimity or greatness of mind, but a swelling and tumour of the mind, where there faileth a right and sound judgment; as also for that it was rather justly to be esteemed a weakness, and a conscience of small value in a man's self to be dejected so with a word or trifling disgrace, as to think there is no re-cure of it, but by the hazard of life: whereas true honour in persons that know their own worth is not of any such brittle substance, but of a more strong composition. And finally, the court shewing a firm and settled resolution to proceed with all severity against these duels gave warning to all young noblemen

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and gentlemen, that they should not expect the like connivance or toleration as formerly have been, but that justice should have a full passage without protection or interruption. Adding, that after a strait inhibition, whosoever should attempt a challenge or combat, in case where the other party was restrained to answer him, as now all good subjects are, did by their own principles receive the dishonour and disgrace upon himself.

And for the present cause, the court hath ordered, adjudged, and decreed, that the said William Priest and Richard Wright be committed to the prison of the Fleet, and the said Priest to pay five hundred pounds, and the said Wright five hundred marks, for their several fines to his majesty's use. And to the end, that some more public example may be made hereof amongst his majesty's people, the court hath further ordered and decreed, that the said Priest and Wright shall at the next assizes, to be holden in the county of Surry, publicly, in face of the court, the judges sitting, acknowledge their high contempt and offence against God, his majesty, and his laws, and shew themselves penitent for the same.

Moreover, the wisdom of this high and honourable court thought it meet and necessary that all sorts of his majesty's subjects should understand and take notice of that which hath been said and handled this day touching this matter, as well by his highness's attorney-general, as by the lords judges,

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touching the law in such cases. And therefore the court hath enjoined Mr. Attorney to have special care to the penning of this decree, for the setting forth in the same summarily the matters and reasons, which have been opened and delivered by the court touching the same; and nevertheless also at some time convenient to publish the particulars of his speech and declaration, as very meet and worthy to be remembered and made known unto the world, as these times are. And this decree, being in such sort carefully drawn and penned, the whole court thought it meet, and so have ordered and decreed, that the same be not only read and published at the next assizes for Surry at such time as the said Priest and Wright are to acknowledge their offences as aforesaid; but that the same be likewise published and made known in all shires of this kingdom. And to that end the justices of assize are required by this honourable court to cause this decree to be solemnly read and published in all the places and sittings of their several circuits, and in the greatest assembly; to the end, that all his majesty's subjects may take knowledge and understand the opinion of this honourable court in this case, and in what measure his majesty and this honourable court purposeth to punish such as shall fall into the like contempt and offences hereafter. Lastly, this honourable court much approving that which the right honourable Sir Edward Coke, knight, lord chief justice of England, did now deliver touching the law in this case

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of duels, hath enjoined his lordship to report the same in print, as he hath formerly done divers other cases, that such as understand not the law in that behalf, and all others, may better direct themselves, and prevent the danger thereof hereafter.

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## THE CHARGE GIVEN BY SIR FRANCIS BACON, KNIGHT, HIS MAJESTY'S ATTORNEY GENERAL, AGAINST MR. OLIVER ST. JOHN, FOR SCANDALISING AND TRADUCING IN THE PUBLIC SESSIONS, LETTERS SENT FROM THE LORDS OF THE COUNCIL TOUCHING THE BENEVOLENCE.

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MY LORDS,

I SHALL inform you "ore tenus," against this gentleman Mr. I. S. a gentleman, as it seems, of an ancient house and name; but, for the present, I can think of him by no other name, than the name of a great offender. The nature and quality of his offence, in sum, is this: This gentleman hath, upon advice, not suddenly by his pen, nor by the slip of his tongue; not privately, or in a corner, but publicly, as it were, to the face of the king's ministers and justices, slandered and traduced the king our sovereign, the law of the land, the parliament, and infinite particulars of his majesty's worthy and loving subjects. Nay, the slander is of that nature, that it may seem to interest the people in grief and discontent against the state; whence might have ensued matter of murmur and sedition. So that it is not a simple slander, but a seditious slander, like to that the poet

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speaketh of—" Calamosque armare veneno." A venomous dart that hath both iron and poison.

To open to your lordships the true state of this offence, I will set before you, first, the occasion whereupon Mr. I. S. wrought: then the offence itself in his own words: and lastly, the points of his charge.

My lords, you may remember that there was the last parliament an expectation to have had the king supplied with treasure, although the event failed. Herein it is not fit for me to give opinion of an house of parliament, but I will give testimony of truth in all places. I served in the lower house, and I observed somewhat. This I do affirm, that I never could perceive but that there was in that house a general disposition to give, and to give largely. The clocks in the house perchance might differ; some went too fast, some went too slow; but the disposition to give was general: so I think I may truly say, "solo tempore lapsus amor."

This accident happening thus beside expectation, it stirred up and awaked in divers of his majesty's worthy servants and subjects of the clergy, the nobility, the court, and others here near at hand, an affection loving and cheerful, to present the king some with plate, some with money, as free-will offerings, a thing that God Almighty loves, a cheerful giver: what an evil eye doth I know not. And, my lords, let me speak it plainly unto you: God forbid any body should be so wretched as to think that the obligation of love and duty, from the subject to

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the king, should be joint and not several. No, my lords, it is both. The subject petitioneth to the king in parliament. He petitioneth likewise out of parliament. The king on the other side gives graces to the subject in parliament: he gives them likewise, and poureth them upon his people out of parliament; and so no doubt the subject may give to the king in parliament, and out of parliament. It is true the parliament is "intercursus magnus," the great intercourse and main current of graces and donatives from the king to the people, from the people to the king: but parliaments are held but at certain times; whereas the passages are always open for particulars; even as you see great rivers have their tides, but particular springs and fountains run continually.

To proceed therefore: As the occasion, which was the failing of supply by parliament, did awake the love and benevolence of those that were at hand to give; so it was apprehended and thought fit by my lords of the council to make a proof whether the occasion and example both, would not awake those in the country of the better sort to follow. Whereupon, their lordships devised and directed letters unto the sheriffs and justices, which declared what was done here above, and wished that the country might be moved, especially men of value.

Now, my lords, I beseech you give me favour and attention to set forth and observe unto you five points: I will number them, because other men may note them; and I will but touch them, because they

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shall not be drowned or lost in discourse, which I hold worthy the observation, for the honour of the state and confusion of slanderers; whereby it will appear most evidently what care was taken, that that which was then done might not have the effect, no nor the shew, no nor so much as the shadow of a tax; and that it was so far from breeding or bringing in any ill precedent or example, as contrariwise it is a corrective that doth correct and allay the harshness and danger of former examples.

The first is, that what was done was done immediately after such a parliament, as made general profession to give, and was interrupted by accident: so as you may truly and justly esteem it, "tanquam "posthuma proles parliamenti," as an after-child of the parliament, and in pursuit, in some small measure, of the firm intent of a parliament past. You may take it also, if you will, as an advance or provisional help until a future parliament; or as a gratification simply without any relation to a parliament; you can no ways take it amiss.

The second is, that it wrought upon example, as a thing not devised or projected, or required; no nor so much as recommended, until many that were never moved nor dealt with, "ex mero motu," had freely and frankly sent in their presents. So that the letters were rather like letters of news, what was done at London, than otherwise: and we know "exempla ducunt, non trahunt:" examples they do but lead, they do not draw nor drive.

The third is, that it was not done by commission

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under the great seal; a thing warranted by a multitude of precedents, both ancient, and of late time, as you shall hear anon, and no doubt warranted by law: so that the commissions be of that style and tenour, as that they be to move and not to levy: but this was done by letters of the council, and no higher hand or form.

The fourth is, that these letters had no manner of shew of any binding act of state: for they contain not any special frame or direction how the business should be managed; but were written as upon trust, leaving the matter wholly to the industry and confidence of those in the country; so that it was an "absque computo;" such a form of letters as no man could fitly be called to account upon.

The fifth and last point is, that the whole carriage of the business had no circumstance compulsory. There was no proportion or rate set down, not so much as by way of a wish; there was no menace of any that should deny; no reproof of any that did deny; no certifying of the names of any that had denied. Indeed, if men could not content themselves to deny, but that they must censure and inveigh, nor to excuse themselves, but they must accuse the state, that is another case. But I say, for denying, no man was apprehended, no nor noted. So that I verily think, that there is none so subtle a disputer in the controversy of "liberum arbitrium," that can with all his distinctions fasten or carp upon the act, but that there was free-will in it.

I conclude therefore, my lords, that this was a

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true and pure benevolence; not an imposition called a benevolence; which the statute speaks of; as you shall hear by one of my fellows. There is a great difference, I tell you, though Pilate would not see it, between "Rex Judæorum" and "se dicens Regem "Judæorum." And there is a great difference between a benevolence and an exaction called a benevolence, which the duke of Buckingham speaks of in his oration to the city; and defineth it to be not what the subject of his good-will would give, but what the King of his good-will would take. But this, I say, was a benevolence wherein every man had a prince's prerogative, a negative voice; and this word, "excuse "moy," was a plea peremptory. And therefore I do wonder how Mr. I. S. could foul or trouble so clear a fountain; certainly it was but his own bitterness and unsound humours.

Now to the particular charge: Amongst other countries, these letters of the lords came to the justices of D—shire, who signified the contents thereof, and gave directions and appointments for meetings concerning the business, to several towns and places within that county: and amongst the rest, notice was given unto the town of A. The mayor of A conceiving that this Mr. I. S. being a principal person, and a dweller in that town, was a man likely to give both money and good example, dealt with him to know his mind: he intending, as it seems, to play prizes, would give no answer to the mayor in private, but would take time. The next day then being an appointment of the justices to meet, he takes

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occasion, or pretends occasion to be absent, because he would bring his papers upon the stage: and thereupon takes pen in hand, and, instead of excusing himself, sits down and contriveth a seditious and libellous accusation against the king and state, which your lordships shall now hear, and sends it to the mayor: and withal, because the feather of his quill might fly abroad, he gives authority to the mayor to impart it to the justices, if he so thought good. And now, my lords, because I will not mistake or misrepeat, you shall hear the seditious libel in the proper terms and words thereof.

(Here the papers were read.)

My lords, I know this paper offends your ears much, and the ears of any good subject; and sorry I am that the times should produce offences of this nature: but since they do, I would be more sorry they should be passed without severe punishment: "Non tradite factum," as the verse says, altered a little, "aut si traditis, facti quoque tradite pœnam." If any man have a mind to discourse of the fact, let him likewise discourse of the punishment of the fact.

In this writing, my lords, there appears a monster with four heads, of the progeny of him that is the father of lies, and takes his name from slander.

The first is a wicked and seditious slander; or, if I shall use the Scripture phrase, a blaspheming of the king himself; setting him forth for a Prince perjured in the great and solemn oath of his coronation, which is as it were the knot of the diadem; a

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prince that should be a violator and infringer of the liberties, laws, and customs of the kingdom; a mark for an Henry the Fourth; a match for a Richard the Second.

The second is a slander and falsification, and wresting of the law of the land gross and palpable: it is truly said by a civilian, "Tortura legum pes-"sima," the torture of laws is worse than the torture of men.

The third is a slander and false charge of the parliament, that they had denied to give to the king; a point of notorious untruth.

And the last is a slander and taunting of an infinite number of the king's loving subjects, that have given towards this benevolence and free contribution; charging them as accessary and co-adjutors to the king's perjury. Nay, you leave us not there, but you take upon you a pontifical habit, and couple your slander with a curse; but thanks be to God we have learned sufficiently out of the Scripture, that "as the bird flies away, so the causeless curse shall "not come."

For the first of these, which concerns the king, I have taken to myself the opening and aggravation thereof; the other three I have distributed to my fellows.

My lords, I cannot but enter into this part with some wonder and astonishment, how it should come into the heart of a subject of England to vapour forth such a wicked and venomous slander against the king, whose goodness and grace is comparable, if



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not incomparable, unto any of the kings his progenitors. This therefore gives me a just and necessary occasion to do two things: The one, to make some representation of his Majesty; such as truly he is found to be in his government, which Mr. I. S. chargeth with violation of laws and liberties: The other, to search and open the depth of Mr. I. S. his offence. Both which I will do briefly; because the one, I cannot express sufficiently; and the other, I will not press too far.

My lords, I mean to make no panegyric or laudative; the king delights not in it, neither am I fit for it: but if it were but a counsellor or nobleman, whose name had suffered, and were to receive some kind of reparation in this high court, I would do him that duty as not to pass his merits and just attributes, especially such as are limited with the present case, in silence: for it is fit to burn incense where evil odours have been cast and raised. Is it so that king James shall be said to be a violator of the liberties, laws, and customs of his kingdoms? Or is he not rather a noble and constant protector and conservator of them all? I conceive this consisteth in maintaining religion and the true Church; in maintaining the laws of the kingdom, which is the subject's birth-right: in temperate use of the prerogative; in due and free administration of justice, and conservation of the peace of the land.

For religion, we must ever acknowlege in the first place, that we have a king that is the principal conservator of true religion through the Christian

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world. He hath maintained it not only with sceptre and sword, but likewise by his pen; wherein also he is potent.

He hath awaked and re-authorized the whole party of the reformed religion throughout Europe; which through the insolency and divers artifices and inchantments of the adverse part, was grown a little dull and dejected: He hath summoned the fraternity of kings to enfranchise themselves from the usurpation of the See of Rome: He hath made himself a mark of contradiction for it.

Neither can I omit, when I speak of religion, to remember that excellent act of his Majesty, which though it were done in a foreign country, yet the Church of God is one, and the contagion of these things will soon pass seas and lands: I mean, in his constant and holy proceeding against the heretic Vorstius, whom, being ready to enter into the chair, and there to have authorised one of the most pestilent and heathenish heresies that ever was begun, his Majesty by his constant opposition dismounted and pulled down. And I am persuaded there sits in this court one whom God doth the rather bless for being his Majesty's instrument in that service.

I cannot remember religion and the church, but I must think of the seed-plots of the same, which are the universities. His Majesty, as for learning amongst kings, he is incomparable in his person; so likewise hath he been in his government a benign or benevolent planet towards learning: by whose influence those nurseries and gardens of learning,

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the universities, were never more in flower nor fruit.

For the maintaining of the laws, which is the hedge and fence about the liberty of the subject, I may truly affirm it was never in better repair. He doth concur with the votes of the nobles; "Nolu- "mus leges Angliæ mutare." He is an enemy of innovation. Neither doth the universality of his own knowledge carry him to neglect or pass over the very forms of the laws of the land. Neither was there ever king, I am persuaded, that did consult so oft with his judges, as my lords that sit here know well. The judges are a kind of council of the king's by oath and ancient institution; but he useth them so indeed: he confers regularly with them upon their returns from their visitations and circuits: he gives them liberty, both to inform him, and to debate matters with him; and in the fall and conclusion commonly relies on their opinions.

As for the use of the prerogative, it runs within the ancient channels and banks: some things that were conceived to be in some proclamations, commissions, and patents, as overflows, have been by his wisdom and care reduced; whereby, no doubt, the main channel of his prerogative is so much the stronger. For evermore overflows do hurt the channel.

As for administration of justice between party and party, I pray observe these points. There is no news of great seal or signet that flies abroad for countenance or delay of causes; protections rarely

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granted, and only upon great ground, or by consent. My lords here of the council and the king himself meddle not, as hath been used in former times, with matters of "meum" and "tuum," except they have apparent mixture with matters of estate, but leave them to the king's courts of law or equity. And for mercy and grace, without which there is no standing before justice, we see, the king now hath reigned twelve years in his white robe, without almost any aspersion of the crimson dye of blood. There sits my lord Hobart, that served attorney seven years. I served with him. We were so happy, as there passed not through our hands any one arraignment for treason; and but one for any capital offence, which was that of the lord Sanquhar; the noblest piece of justice, one of them, that ever came forth in any king's time.

As for penal laws, which lie as snares upon the subjects, and which were as a "nemo scit" to king Henry VII.; it yields a revenue that will scarce pay for the parchment of the king's records at Westminster.

And lastly for peace, we see manifestly his majesty bears some resemblance of that great name, "a prince of peace:" he hath preserved his subjects during his reign in peace, both within and without. For the peace with states abroad, we have it "usque "ad satietatem:" and for peace in the lawyers phrase, which count trespasses, and forces, and riots, to be "contra pacem;" let me give your lordships this token or taste, that this court, where they should

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appear, had never less to do. And certainly there is no better sign of "omnia bene," than when this court is in a still.

But, my lords, this is a sea of matter: and therefore I must give it over, and conclude, that there was never king reigned in this nation that did better keep covenant in preserving the liberties and procuring the good of his people: so that I must needs say for the subjects of England,

"O fortunatos nimium sua si boni norint;"

as no doubt they do both know and acknowledge it; whatsoever a few turbulent discoursers may, through the lenity of the time, take boldness to speak.

And as for this particular, touching the benevolence, wherein Mr. I. S. doth assign this breach of covenant, I leave it to others to tell you what the king may do, or what other kings have done; but I have told you what our king and my lords have done: which, I say and say again, is so far from introducing a new precedent, as it doth rather correct, and mollify, and qualify former precedents.

Now, Mr. I. S. let me tell you your fault in few words: for that I am persuaded you see it already, though I woo no man's repentance; but I shall, as much as in me is, cherish it where I find it. Your offence hath three parts knit together:

Your slander,

Your menace, and

Your comparison.

For your slander, it is no less than that the king

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is perjured in his coronation oath. No greater offence than perjury; no greater oath than that of a coronation. I leave it; it is too great to aggravate.

Your menace, that if there were a Bullingbroke, or I cannot tell what, there were matter for him, is a very seditious passage. You know well, that howsoever Henry the Fourth's act, by a secret providence of God, prevailed, yet it was but an usurpation; and if it were possible for such a one to be this day, wherewith it seems your dreams are troubled, I do not doubt, his end would be upon the block; and that he would sooner have the ravens sit upon his head at London bridge, than the crown at Westminster. And it is not your interlacing of your "God forbid," that will salve these seditious speeches: neither could it be a forewarning, because the matter was past and not revocable, but a very stirring up and incensing of the people. If I should say to you, for example, "If these times were like "some former times, of king Henry VIII. or some "other times, which God forbid, Mr. I. S. it would "cost you your life;" I am sure you would not think this to be a gentle warning, but rather that I incensed the court against you.

And for your comparison with Richard II. I see, you follow the example of them that brought him upon the stage, and into print, in queen Elizabeth's time, a most prudent and admirable queen. But let me intreat you, that when you will speak of queen Elizabeth or king James, you would compare them to king Henry VII. or king Edward I. or some other

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parallels to which they are alike. And this I would wish both you and all to take heed of, how you speak seditious matter in parables, or by tropes or examples. There is a thing in an indictment called an inuendo; you must beware how you beckon or make signs upon the king in a dangerous sense: but I will contain myself and press this no farther. I may hold you for turbulent or presumptuous; but I hope you are not disloyal: you are graciously and mercifully dealt with. And therefore having now opened to my lords, and, as I think, to your own heart and conscience, the principal part of your offence, which concerns the king, I leave the rest, which concerns the law, parliament, and the subjects that have given, to Mr. Serjeant and Mr. Solicitor.

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## THE CHARGE OF SIR FRANCIS BACON, KNIGHT, THE KING'S ATTORNEY-GENERAL, AGAINST MR. LUMSDEN, SIR JOHN WENTWORTH, AND SIR JOHN HOLLES, FOR SCANDAL AND TRADUCING OF THE KING'S JUSTICE IN THE PROCEEDINGS AGAINST WESTON IN THE STAR-CHAMBER.

TENTH NOVEMBER, SIXTEEN HUNDRED AND FIFTEEN.

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The offence wherewith I shall charge the three offenders at the bar, is a misdemeanour of a high nature, tending to the defacing and scandal of justice in a great cause capital. The particular charge is this:

The king amongst many his princely virtues is known to excel in that proper virtue of the imperial throne, which is justice. It is a royal virtue, which doth employ the other three cardinal virtues in her service: wisdom to discover, and discern nocent or innocent; fortitude to prosecute and execute; temperance, so to carry justice as it be not passionate in the pursuit, nor confused in involving persons upon light suspicion, nor precipitate in time. For this his Majesty's virtue of justice, God hath of late raised an occasion, and erected as it were a stage or theatre, much to his honour, for him to shew it, and act in the pursuit of the untimely death of Sir Thomas

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Overbury, and therein cleansing the land from blood. For, my lords, if blood spilt pure doth cry to heaven in God's ears, much more blood defiled with poison.

This great work of his majesty's justice, the more excellent it is, your lordships will soon conclude the greater is the offence of any that have sought to affront it or traduce it. And therefore, before I descend unto the charge of these offenders, I will set before your lordships the weight of that which they have sought to impeach; speaking somewhat of the general crime of impoisonment, and then of the particular circumstances of this fact upon Overbury; and thirdly and chiefly, of the king's great and worthy care and carriage in this business.

The offence of impoisonment is most truly figured in that devise or description, which was made of the nature of one of the Roman tyrants, that he was "lutum sanguine maceratum," mire mingled or cemented with blood: for as it is one of the highest offences in guiltiness, so it is the basest of all others in the mind of the offenders. Treasons "magnum "aliquid spectant:" they aim at great things; but this is vile and base. I tell your lordships what I have noted, that in all God's book, both of the Old and New Testament, I find examples of all other offences and offenders in the world, but not any one of an impoisonment or an impoisoner. I find mention of fear of casual impoisonment: when the wild vine was shred into the pot, they came complaining in a fearful manner; Master, "mors in olla." And I

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find mention of poisons of beasts and serpents; "the "poison of asps is under their lips." But I find no example in the book of God of impoisonment. I have sometime thought of the words in the psalm, "let their table be made a snare." Which certainly is most true of impoisonment; for the table, the daily bread, for which we pray, is turned to a deadly snare: but I think rather that that was meant of the treachery of friends that were participant of the same table.

But let us go on. It is an offence, my lords, that hath the two spurs of offending; "spes perficiendi," and "spes celandi:" it is easily committed, and easily concealed.

It is an offence that is "tanquam sagitta nocte "volans;" it is the arrow that flies by night. It discerns not whom it hits: for many times the poison is laid for one, and the other takes it; as in Sanders's case, where the poisoned apple was laid for the mother, and was taken up by the child, and killed the child: and so in that notorious case, whereupon the statute of 22 Hen. VIII. cap. 9. was made, where the intent being to poison but one or two, poison was put into a little vessel of barm that stood in the kitchen of the bishop of Rochester's house; of which barm pottage, or gruel was made, wherewith seventeen of the bishop's family were poisoned: nay, divers of the poor that came to the bishop's gate, and had the broken pottage in alms, were likewise poisoned. And therefore if any man will comfort himself, or think with himself, Here is great

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talk of impoisonment, I hope I am safe; for I have no enemies; nor I have nothing that any body should long for: Why, that is all one; for he may sit at table by one for whom poison is prepared, and have a drench of his cup, or of his pottage.

And so, as the poet saith, "concidit infelix alieno "vulnere;" he may die another man's death. And therefore it was most gravely, and judiciously, and properly provided by that statute, that impoisonment should be high treason; because whatsoever offence tendeth to the utter subversion and dissolution of human society, is in the nature of high treason.

Lastly, it is an offence that I may truly say of it, "non est nostri generis, nec sanguinis." It is, thanks be to God, rare in the isle of Britain: it is neither of our country, nor of our Church; you may find it in Rome or Italy. There is a region, or perhaps a religion for it: and if it should come amongst us, certainly it were better living in a wilderness than in a court.

For the particular fact upon Overbury. First, for the person of Sir Thomas Overbury: I knew the gentleman. It is true, his mind was great, but it moved not in any good order; yet certainly it did commonly fly at good things; and the greatest fault that I ever heard of him was, that he made his friend his idol. But I leave him as Sir Thomas Overbury.

But take him as he was the king's prisoner in the Tower; and then see how the case stands. In

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that place the state is as it were respondent to make good the body of a prisoner. And if any thing happen to him there, it may, though not in this case, yet in some others, make an aspersion and reflection upon the state itself. For the person is utterly out of his own defence; his own care and providence can serve him nothing. He is in custody and preservation of law; and we have a maxim in our law, as my lords the judges know, that when a state is in preservation of law, nothing can destroy it, or hurt it. And God forbid but the like should be for the persons of those that are in custody of law; and therefore this was a circumstance of great aggravation.

Lastly, To have a man chased to death in such manner, as it appears now by matter of record; for other privacy of the cause I know not, by poison after poison, first roseaker, then arsenick, then mercury sublimate, then sublimate again; it is a thing would astonish man's nature to hear it. The poets feign, that the Furies had whips, that they were corded with poisonous snakes; and a man would think that this were the very case, to have a man tied to a post, and to scourge him to death with snakes: for so may truly be termed diversity of poisons.

Now I will come to that which is the principal; that is, his majesty's princely, yea, and as I may truly term it, sacred proceeding in this cause. Wherein I will speak of the temper of his justice, and then of the strength thereof.

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First, it pleased my lord Chief Justice to let me know, that which I heard with great comfort, which was the charge that his majesty gave to himself first, and afterwards to the commissioners in this case, worthy certainly to be written in letters of gold, wherein his majesty did forerank and make it his prime direction, that it should be carried, without touch to any that was innocent; nay more, not only without impeachment, but without aspersion: which was a most noble and princely caution from his majesty; for men's reputations are tender things, and ought to be, like Christ's coat, without seam. And it was the more to be respected in this case, because it met with two great persons; a nobleman that his majesty had favoured and advanced, and his lady being of a great and honourable house: though I think it be true that the writers say, That there is no pomegranate so fair or so sound, but may have a perished kernel. Nay, I see plainly, that in those excellent papers of his majesty's own hand-writing, being as so many beams of justice issuing from that virtue which doth shine in him; I say, I see it was so evenly carried without prejudice, whether it were a true accusation of the one part, or a practice of a false accusation on the other, as shewed plainly that his majesty's judgment was "tanquam tabula rasa," as a clean pair of tables, and his ear "tanquam janua "aperta," as a gate not side open, but wide open to truth, as it should be by little and little discovered. Nay, I see plainly, that at the first, till farther light did break forth, his majesty was little moved with

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the first tale, which he vouchsafeth not so much as the name of a tale; but calleth it a rumour, which is an heedless tale.

As for the strength or resolution of his majesty's justice, I must tell your lordships plainly; I do not marvel to see kings thunder out justice in cases of treason, when they are touched themselves; and that they are "vindices doloris proprii:" but that a king should, "pro amore justitiæ" only, contrary to the tide of his own affection, for the preservation of his people, take such care of a cause of justice, that is rare and worthy to be celebrated far and near. For, I think, I may truly affirm, that there was never in this kingdom, nor in any other kingdom, the blood of a private gentleman vindicated "cum tanto motu "regni," or to say better, "cum tanto plausu regni." If it had concerned the king or prince, there could not have been greater nor better commissioners to examine it. The term hath been almost turned into a "justitium," or vacancy; the people themselves being more willing to be lookers on in this business, than to follow their own. There hath been no care of discovery omitted, no moment of time lost. And therefore I will conclude this part with the saying of Solomon, "Gloria Dei celare rem, et gloria Regis "scrutari rem." And his majesty's honour is much the greater for that he hath shewed to the world in this business as it hath relation to my lord of Somerset, whose case in no sort I do prejudge, being ignorant of the secrets of the cause, but taking him as the law takes him hitherto, for a subject, I say, the

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king hath to his great honour shewed, that were any man, in such a case of blood, as the signet upon his right hand, as the Scripture says, yet would he put him off.

Now will I come to the particular charge of these gentlemen, whose qualities and persons I respect and love; for they are all my particular friends: but now I can only do this duty of a friend to them, to make them know their fault to the full.

And therefore, first, I will by way of narrative declare to your lordships the fact, with the occasion of it; then you shall have their confessions read, upon which you are to proceed, together with some collateral testimonies by way of aggravation: and lastly, I will note and observe to your lordships the material points which I do insist upon for their charge, and so leave them to their answer. And this I will do very briefly, for the case is not perplexed.

That wretched man Weston, who was the actor or mechanical party in this impoisonment, at the first day being indicted by a very substantial jury of selected citizens, to the number of nineteen, who found "billa vera," yet nevertheless at the first stood mute: but after some days intermission, it pleased God to cast out the dumb devil, and that he did put himself upon his trial; and was by a jury also of great value, upon his confession, and other testimonies, found guilty: so as thirty-one sufficient jurors have passed upon him. Whereupon judgment and exe-

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cution was awarded against him. After this, being in preparation for another world, he sent for Sir John Overbury's father, and falling down upon his knees, with great remorse and compunction, asked him forgiveness. Afterwards, again, of his own motion, desired to have his like prayer of forgiveness recommended to his mother, who was absent. And at both times, out of the abundance of his heart, confessed that he was to die justly, and that he was worthy of death. And after again at his execution, which is a kind of sealing-time of confessions, even at the point of death, although there were tempters about him, as you shall hear by and by, yet he did again confirm publickly, that his examinations were true, and that he had been justly and honourably dealt with. Here is the narrative, which induceth the charge. The charge itself is this.

Mr. L. whose offence stands alone single, the offence of the other two being in consort; and yet all three meeting in their end and centre, which was to interrupt or deface this excellent piece of justice; Mr. L. I say, meanwhile between Weston's standing mute and his trial, takes upon him to make a most false, odious, and libellous relation, containing as many untruths as lines, and sets it down in writing with his own hand, and delivers it to Mr. Henry Gibb, of the bed-chamber, to be put into the king's hand; in which writing he doth falsify and pervert all that was done the first day at the arraignment of Weston; turning the pike and point of his



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imputations principally upon my lord chief justice of England; whose name, thus occurring, I cannot pass by, and yet I cannot skill to flatter. But this I will say of him, and I would say as much to ages, if I should write a story; that never man's person and his place were better met in a business, than my lord Coke and my lord chief justice, in the cause of Overbury.

Now, my lords, in this offence of M. L. for the particulars of these slanderous articles, I will observe them unto you when the writings and examinations are read; for I do not love to set the gloss before the text. But, in general I note to your lordships, first, the person of M. L. I know he is a Scotch gentleman, and thereby more ignorant of our laws and forms: but I cannot tell whether this doth extenuate his fault in respect of ignorance, or aggravate it much, in respect of presumption; that he would meddle in that that he understood not: but I doubt it came not out of his quiver: some other man's cunning wrought upon this man's boldness. Secondly, I may note unto you the greatness of the cause, wherein he being a private mean gentleman did presume to deal. M. L. could not but know to what great and grave commissioners the king had committed this cause; and that his majesty in his wisdom would expect return of all things from them to whose trust he had committed this business. For it is the part of commissioners, as well to report the business, as to manage the business; and then his majesty might have been

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sure to have had all things well weighed, and truly informed: and therefore it should have been far from M. L. to have presumed to have put forth his hand to so high and tender a business, which was not to be touched but by employed hands. Thirdly, I note to your lordships, that this infusion of a slander into a king's ear, is of all forms of libels and slanders the worst. It is true, that kings may keep secret their informations, and then no man ought to enquire after them, while they are shrined in their breast. But where a king is pleased that a man shall answer for his false information; there, I say, the false information to a king exceeds in offence the false information of any other kind; being a kind, since we are in a matter of poison, of impoisonment of a king's ear. And thus much for the offence of M. L.

For the offence of S. W. and H. I. which I said was in consort, it was shortly this. At the time and place of the execution of Weston, to supplant his Christian resolution, and to scandalize the justice already past, and perhaps to cut off the thread of that which is to come, these gentlemen, with others, came mounted on horseback, and in a ruffling and facing manner put themselves forward to re-examine Weston upon questions: and what questions? Directly cross to that that had been tried and judged, For what was the point tried? That Weston had poisoned Overbury. What was S. W.'s question? Whether Weston did poison Overbury or no? A contradictory directly: Weston answered only, that

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he did him wrong; and turning to the sheriff, said, You promised me I should not be troubled at this time. Nevertheless, he pressed him to answer; saying he desired to know it, that he might pray with him. I know not that S. W. is an ecclesiastic, that he should cut any man from the communion of prayer. And yet for all this vexing of the spirit of a poor man, now in the gates of death; Weston nevertheless stood constant, and said, I die not unworthily; my lord chief justice hath my mind under my hand, and he is an honourable and just judge. This is S. W. his offence.

For H. I. he was not so much a questionist; but wrought upon the others questions, and, like a kind of confessor, wished him to discharge his conscience, and to satisfy the world. What world? I marvel! it was sure the world at Tyburn. For the world at Guildhall, and the world at London, was satisfied before; "teste" the bells that rung. But men have got a fashion now-a-days, that two or three busy-bodies will take upon them the name of the world, and broach their own conceits, as if it were a general opinion. Well, what more? When they could not work upon Weston, then H. I. in an indignation turned about his horse, when the other was turning over the ladder, and said, he was sorry for such a conclusion; that was, to have the state honoured or justified; but others took and reported his words in another degree: but that I leave, seeing it is not confessed.

H. I. his offence had another appendix, before

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this in time; which was, that at the day of the verdict given up by the jury, he also would needs give his verdict, saying openly, that if he were of the jury, he would doubt what to do. Marry, he saith, he cannot tell well whether he spake this before the jury had given up the verdict, or after; wherein there is little gained. For whether H. I. were a pre-juror or a post-juror, the one was to prejudge the jury, the other as to taint them.

Of the offence of these two gentlemen in general, your lordships must give me leave to say, that it is an offence greater and more dangerous than is conceived. I know well that as we have no Spanish inquisitions, nor justice in a corner; so we have no gagging of men's mouths at their death: but that they may speak freely at the last hour; but then it must come from the free motion of the party, not by temptation of questions. The questions that are to be asked ought to tend to farther revealing of their own or others guiltiness; but to use a question in the nature of a false interrogatory, to falsify that which is "res judicata," is intolerable. For that were to erect a court or commission of review at Tyburn, against the King's Bench at Westminster. And besides, it is a thing vain and idle: for if they answer according to the judgment past, it adds no credit; or if it be contrary, it derogateth nothing: but yet it subjecteth the majesty of justice to popular and vulgar talk and opinion.

My lords, these are great and dangerous offences;

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for if we do not maintain justice, justice will not maintain us.

But now your lordships shall hear the examinations themselves, upon which I shall have occasion to note some particular things, &c.

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# A CHARGE DELIVERED BY SIR FRANCIS BACON, KNIGHT, THE KING'S SOLICITOR-GENERAL, AT THE ARRAIGNMENT OF THE LORD SANQUHAR, IN THE KING'S BENCH AT WESTMINSTER.

THE ARGUMENT.

The Lord Sanquhar, a Scotch nobleman, having, in private revenge, suborned Robert Carlile to murder John Turner, master of fence, thought, by his greatness, to have borne it out; but the king, respecting nothing so much as justice, would not suffer nobility to be a shelter for villainy; but, according to law, on the 29th of June, 1612, the said Lord Sanquhar, having been arraigned and condemned, by the name of Robert Creighton, Esq. was before Westminster-hall Gate executed, where he died very penitent. At whose arraignment my Lord Bacon, then solicitor-general to King James, made this speech following:

In this cause of life and death, the jury's part is in effect discharged; for after a frank and formal confession, their labour is at an end: so that what hath been said by Mr. Attorney, or shall be said by myself, is rather convenient than necessary.

My lord Sanquhar, your fault is great, and cannot be extenuated, and it need not be aggravated; and if it needed, you have made so full an anatomy of it out of your own feeling, as it cannot be matched by myself, or any man else, out of conceit; so as

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that part of aggravation I leave. Nay, more, this Christian and penitent course of yours draws me thus far, that I will agree, in some sort extenuates it: for certainly, as even in extreme evils there are degrees; so this particular of your offence is such, as though it be foul spilling of blood, yet there are more foul: for if you had sought to take away a man's life for his vineyard, as Ahab did; or for envy, as Cain did; or to possess his bed, as David did; surely the murder had been more odious.

Your temptation was revenge, which the more natural it is to man, the more have laws both divine and human sought to repress it; "Mihi vindicta." But in one thing you and I shall never agree, that generous spirits, you say, are hard to forgive: no, contrariwise, generous and magnanimous minds are readiest to forgive; and it is a weakness and impotency of mind to be unable to forgive;

"Corpora magnanimo satis est prostrasse leoni."

But howsoever murders may arise from several motives, less or more odious, yet the law both of God and man involves them in one degree, and therefore you may read that in Joab's case, which was a murder upon revenge, and matcheth with your case; he for a dear brother, and you for a dear part of your own body; yet there was a severe charge given, it should not be unpunished.

And certainly the circumstance of time is heavy upon you: it is now five years ince this unfortunate man Turner, be it upon accident, or be it

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upon despite, gave the provocation, which was the seed of your malice. All passions are suaged with time: love, hatred, grief; all fire itself burns out with time, if no new fuel be put to it. Therefore for you to have been in the gall of bitterness so long, and to have been in a restless chase of this blood so many years, is a strange example; and I must tell you plainly, that I conceive you have sucked those affections of dwelling in malice, rather out of Italy and outlandish manners, where you have conversed, than out of any part of this island, England or Scotland.

But that which is fittest for me to spend time in, the matter being confessed, is to set forth and magnify to the hearers the justice of this day; first of God, and then of the king.

My lord, you have friends and entertainments in foreign parts; it had been an easy thing for you to set Carlile, or some other bloodhound on work, when your person had been beyond the seas; and so this news might have come to you in a packet, and you might have looked on how the storm would pass: but God bereaved you of this foresight, and closed you here under the hand of a king, that though abundant in clemency, yet is no less zealous of justice.

Again, when you came in at Lambeth, you might have persisted in the denial of the procurement of the fact; Carlile, a resolute man, might perhaps have cleared you, for they that are resolute in mischief, are commonly obstinate in concealing the pro-

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curers, and so nothing should have been against you but presumption. But then also God, to take away all obstruction of justice, gave you the grace, which ought indeed to be more true comfort to you, than any device whereby you might have escaped, to make a clear and plain confession.

Other impediments there were, not a few, which might have been an interruption to this day's justice, had not God in his providence removed them.

But, now that I have given God the honour, let me give it likewise where it is next due, which is, to the king our sovereign.

This murder was no sooner committed, and brought to his majesty's ears, but his just indignation, wherewith he first was moved, cast itself into a great deal of care and providence to have justice done. First came forth his proclamation, somewhat of a rare form, and devised, and in effect dictated by his majesty himself; and by that he did prosecute the offenders, as it were with the breath and blast of his mouth. Then did his majesty stretch forth his long arms, for kings have long arms when they will extend them, one of them to the sea, where he took hold of Grey shipped for Sweden, who gave the first light of testimony; the other arm to Scotland, and took hold of Carlile, ere he was warm in his house, and brought him the length of his kingdom under such safe watch and custody, as he could have no means to escape, no nor to mischief himself, no nor learn any lessons to stand mute; in which cases, perhaps, this day's justice might have

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received a stop. So that I may conclude his majesty hath shewed himself God's true lieutenant, and that he is no respecter of persons; but the English, Scottish, nobleman, fencer, are to him alike in respect of justice.

Nay, I must say farther, that his majesty hath had, in this, a kind of prophetical spirit; for what time Carlile and Grey, and you, my lord, yourself, were fled no man knew whither, to the four winds, the king ever spake in a confident and undertaking manner, that wheresoever the offenders were in Europe, he would produce them forth to justice; of which noble word God hath made him master.

Lastly, I will conclude towards you, my lord, that though your offence hath been great, yet your confession hath been free, and your behaviour and speech full of discretion; and this shews, that though you could not resist the tempter, yet you bear a Christian and generous mind, answerable to the noble family of which you are descended. This I commend unto you, and take it to be an assured token of God's mercy and favour, in respect whereof all worldly things are but trash; and so it is fit for you, as your state now is, to account them. And this is all I will say for the present.

[*Note*, The reader, for his fuller information in this story of the lord Sanquhar, is desired to peruse the case in the ninth book of the lord Coke's Reports; at the end of which the whole series of the murder and trial is exactly related.]

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## THE CHARGE OF OWEN, INDICTED OF HIGH TREASON, IN THE KING'S BENCH, BY SIR FRANCIS BACON, KNIGHT, HIS MAJESTY'S ATTORNEY-GENERAL.

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THE treason wherewith this man standeth charged, is for the kind and nature of it ancient, as ancient as there is any law of England; but in the particular, late and upstart: and again, in the manner and boldness of the present case, new and almost unheard of till this man. Of what mind he is now, I know not; but I take him as he was, and as he standeth charged. For high treason is not written in ice; that when the body relenteth, the impression should go away.

In this cause the evidence itself will spend little time: time therefore will be best spent in opening fully the nature of this treason, with the circumstances thereof; because the example is more than the man. I think good therefore by way of inducement and declaration in this cause to open unto the court, jury, and hearers, five things.

The first is the clemency of the king; because it is news, and a kind of rarity to have a proceeding in this place upon treason: and perhaps it may be marvelled by some, why after so long an intermission it should light upon this fellow; being a person

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but contemptible, a kind of venomous fly, and a hang-by of the seminaries.

The second is, the nature of this treason, as concerning the fact, which, of all kinds of compassing the king's death, I hold to be the most perilous, and as much differing from other conspiracies, as the lifting up of a thousand hands against the king, like the giant Briareus, differs from lifting up one or a few hands.

The third point that I will speak unto is the doctrine or opinion, which is the ground of this treason; wherein I will not argue or speak like a divine or scholar, but as a man bred in a civil life; and to speak plainly, I hold the opinion to be such that deserveth rather detestation than contestation.

The fourth point is the degree of this man's offence, which is more presumptuous than I have known any other to have fallen into in this kind, and hath a greater overflow of malice and treason.

And fifthly, I will remove somewhat that may seem to qualify and extenuate this man's offence; in that he hath not affirmed simply that it is lawful to kill the king, but conditionally; that if the king be excommunicate, it is lawful to kill him: which maketh little difference either in law or peril.

For the king's clemency, I have said it of late upon a good occasion, and I still speak it with comfort: I have now served his majesty's solicitor and attorney eight years and better; yet this is the first time that ever I gave in evidence against a traitor at

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this bar or any other. There hath not wanted matter in that party of the subjects whence this kind of offence floweth, to irritate the king: he hath been irritated by the powder of treason, which might have turned judgment into fury. He hath been irritated by wicked and monstrous libels; irritated by a general insolency and presumption in the Papists throughout the land; and yet I see his majesty keepeth Cæsar's rule: "Nil malo, quam eos esse similes sui, et me mei." He leaveth them to be like themselves; and he remaineth like himself, and striveth to overcome evil with goodness. A strange thing, bloody opinions, bloody doctrines, bloody examples, and yet the government still unstained with blood. As for this Owen that is brought in question, though his person be in his condition contemptible; yet we see by miserable examples, that these wretches which are but the scum of the earth, have been able to stir earthquakes by murdering princes; and if it were in case of contagion, as this is a contagion of the heart and soul, a rascal may bring in a plague into the city as well as a great man: so it is not the person, but the matter that is to be considered.

For the treason itself, which is the second point, my desire is to open it in the depth thereof, if it were possible; but it is bottomless: I said in the beginning, that this treason in the nature of it was old. It is not of the treasons whereof it may be said, from the beginning it was not so. You are indicted, Owen, not upon any statute made against the pope's supremacy, or other matters, that have

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reference to religion; but merely upon that law which was born with the kingdom, and was law even in superstitious times, when the pope was received. The compassing and imagining of the king's death was treason. The statute of 25 Edw. III. which was but declaratory, begins with this article as the capital of capitals in treason, and of all others the most odious and the most perilous: and so the civil law saith, "Conjurationes omnium proditionum "odiosissimæ et perniciosissimæ." Against hostile invasions and the adherence of subjects to enemies, kings can arm. Rebellions must go over the bodies of many good subjects before they can hurt the king: but conspiracies against the persons of kings are like thunderbolts that strike upon the sudden, hardly to be avoided. "Major metus a singulis," saith he, "quam ab universis." There is no preparation against them: and that preparation which may be of guard or custody, is a perpetual misery. And therefore they that have written of the privileges of ambassadors and of the amplitude of safe-conducts, have defined, that if an ambassador or a man that cometh in upon the highest safe-conducts, do practise matter of sedition in a state, yet by the law of nations he ought to be remanded; but if he conspire against the life of a prince by violence or poison, he is to be justiced: "Quia odium est omni "privilegio majus." Nay, even amongst enemies, and in the most deadly wars, yet nevertheless conspiracy and assassination of princes hath been accounted villainous and execrable.

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The manners of conspiring and compassing the king's death are many: but it is most apparent, that amongst all the rest this surmounteth. First, because it is grounded upon pretenced religion; which is a trumpet that inflameth the heart and powers of a man with daring and resolution more than any thing else. Secondly, it is the hardest to be avoided; for when a particular conspiracy is plotted or attempted against a king by some one or some few conspirators, it meets with a number of impediments. Commonly he that hath the head to devise it, hath not the heart to undertake it: and the person that is used, sometimes faileth in courage; sometimes faileth in opportunity; sometimes is touched with remorse. But to publish and maintain, that it may be lawful for any man living to attempt the life of a king, this doctrine is a venemous sop; or, as a legion of malign spirits, or an universal temptation, doth enter at once into the hearts of all that are any way prepared, or of any predisposition to be traitors; so that whatsoever faileth in any one, is supplied in many. If one man faint, another will dare: if one man hath not the opportunity, another hath; if one man relent, another will be desperate. And thirdly, particular conspiracies have their periods of time, within which if they be not taken, they vanish; but this is endless, and importeth perpetuity of springing conspiracies. And so much concerning the nature of the fact.

For the third point, which is the doctrine; that upon an excommunication of the pope, with sentence

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of deposing, a king by any son of Adam may be slaughtered; and that it is justice and no murder; and that their subjects are absolved of their allegiance, and the kings themselves exposed to spoil and prey. I said before, that I would not argue the subtlety of the question: it is rather to be spoken to by way of accusation of the opinion as impious, than by way of dispute of it as doubtful. Nay, I say, it deserveth rather some holy war or league amongst all Christian princes of either religion for the extirpating and rasing of the opinion, and the authors thereof, from the face of the earth, than the stile of pen or speech. Therefore in this kind I will speak to it a few words, and not otherwise. Nay, I protest, if I were a Papist I should say as much: nay, I should speak it perhaps with more indignation and feeling. For this horrible opinion is our advantage, and it is their reproach, and will be their ruin.

This monster of opinion is to be accused of three most evident and most miserable slanders.

First, Of the slander it bringeth to the Christian faith, being a plain plantation of irreligion and atheism.

Secondly, The subversion which it introduceth into all policy and government.

Thirdly, The great calamity it bringeth upon Papists themselves; of which the more moderate sort, as men misled, are to be pitied.

For the first, if a man doth visit the foul and polluted opinions, customs, or practices of heathenism,



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Mahometanism, and heresy, he shall find they do not attain to this height. Take the examples of damnable memory amongst the heathens. The proscriptions in Rome of Sylla, and afterwards of the Triumvirs, what were they? They were but of a finite number of persons, and those not many that were exposed unto any man's sword. But what is that to the proscribing of a king, and all that shall take his part? And what was the reward of a soldier that amongst them killed one of the proscribed? A small piece of money. But what is now the reward of one that shall kill a king? The kingdom of heaven. The custom among the heathen that was most scandalised was, that sometimes the priest sacrificed men; but yet you shall not read of any priesthood that sacrificed kings.

The Mahometans make it a part of their religion to propagate their sect by the sword; but yet still by honourable wars, never by villanies and secret murders. Nay, I find that the Saracen prince, of whom the name of the assassins is derived, which had divers votaries at commandment, which he sent and employed to the killing of divers princes in the east, by one of whom Amurath the first was slain, and Edward the first of England was wounded, was put down and rooted out by common consent of the Mahometan princes.

The Anabaptists, it is true, come nearest. For they profess the pulling down of magistrates: and they can chaunt the psalm, "To bind their kings in "chains, and their nobles in fetters of iron." This

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is the glory of the saints, much like the temporal authority that the Pope challengeth over princes. But this is the difference, that that is a furious and fanatical fury, and this is a sad and solemn mischief: he "imagineth mischief as a law;" a law-like mischief.

As for the defence which they do make, it doth aggravate the sin, and turneth it from a cruelty towards man to a blasphemy towards God. For to say that all this is "in ordine ad spirituale," and to a good end, and for the salvation of souls, it is directly to make God author of evil, and to draw him in the likeness of the prince of darkness; and to say with those that Saint Paul speaketh of, "Let us do evil "that good may come thereof;" of whom the apostle saith definitively, "that their damnation is "just."

For the destroying of government universally, it is most evident, that it is not the case of protestant princes only, but of catholic princes likewise; as the king hath excellently set forth. Nay, it is not the case of princes only, but of all subjects and private persons. For touching princes, let history be perused, what hath been the causes of excommunication; and namely, this tumour of it, the deposing of kings; it hath not been for heresy and schism alone, but for collation and investitures of bishopricks and benefices, intruding upon ecclesiastical possessions, violating of any ecclesiastical person or liberty. Nay, generally they maintain it, that it may be for any sin: so that the difference wherein their doctors vary, that some hold that the Pope hath his temporal

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power immediately, and others but "in ordine ad "spirituale," is but a delusion and an abuse. For all cometh to one. What is there that may not be made spiritual by consequence: especially when he that giveth the sentence may make the case? and accordingly hath the miserable experience followed. For this murdering of kings hath been put in practice, as well against papist kings as protestant: save that it hath pleased God so to guide it by his admirable providence, as the attempts upon papists princes have been executed, and the attempts upon protestant princes have failed, except that of the prince of Orange: and not that neither, until such time as he had joined too fast with the duke of Anjou and the papists. As for subjects, I see not, nor ever could discern, but that by infallible consequence it is the case of all subjects and people, as well as of kings; for it is all one reason, that a bishop, upon an excommunicaton of a private man, may give his lands and goods in spoil, or cause him to be slaughtered, as for the Pope to do it towards a king; and for a bishop to absolve the son from duty to the father, as for the pope to absolve the subject from his allegiance to his king. And this is not my inference, but the very affirmative of pope Urban the second, who in a brief to Godfrey, bishop of Luca, hath these very words, which cardinal Baronius reciteth in his Annals, "Non illos homicidas arbitramur, qui "adversus excommunicatos zelo catholicæ matris "ardentes eorum quoslibet trucidare contigerit," speaking generally of all excommunications.

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# THE CHARGE OF SIR FRANCIS BACON, KNIGHT, HIS MAJESTY'S ATTORNEY-GENERAL, AGAINST FRANCES COUNTESS OF SOMERSET, INTENDED TO HAVE BEEN SPOKEN BY HIM AT HER ARRAIGNMENT, ON FRIDAY, MAY 24, 1616, IN CASE SHE HAD PLEADED NOT GUILTY.*

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*It may please your Grace, my Lord High Steward of England†, and you my Lords the Peers:*

You have heard the indictment against this lady well opened; and likewise the point in law, that might make some doubt, declared and solved; wherein certainly the policy of the law of England is much to be esteemed, which requireth and respecteth form in the indictment, and substance in the proof.

This scruple it may be hath moved this lady to plead not guilty, though for the proof I shall not need much more than her own confession, which she hath formerly made, free and voluntary, and therein given glory to God and justice. And certainly confession, as it is the strongest foundation of justice, so it is a kind of corner-stone, whereupon justice and mercy may meet.

* She pleaded guilty, on which occasion the attorney-general spoke a charge somewhat different from this.

† Thomas Egerton, Viscount Ellesmere, lord high chancellor.

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The proofs, which I shall read in the end for the ground of your verdict and sentence, will be very short; and, as much as may, serve to satisfy your honours and consciences for the conviction of this lady, without wasting of time in a case clear and confessed; or ripping up guiltiness against one, that hath prostrated herself by confession; or preventing or deflowering too much of the evidence. And therefore the occasion itself doth admonish me to spend this day rather in declaration than in evidence, giving God and the king the honour, and your lordships and the hearers the contentment, to set before you the proceeding of this excellent work of the king's justice, from the beginning to the end; and so to conclude with the reading the confessions and proofs.

My lords, this is now the second time * within the space of thirteen years reign of our happy sovereign, that this high tribunal-seat of justice, ordained for the trial by peers, hath been opened and erected; and that, with a rare event, supplied and exercised by one and the same person, which is a great honour to you, my lord steward.

In all this meantime the king hath reigned in his white robe, not sprinkled with any drop of blood of any of his nobles of this kingdom. Nay, such have been the depths of his mercy, as even those noblemens bloods, against whom the proceeding was at

* The first time was on the trials of the lords Cobham and Grey, in November, 1603.

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Winchester, Cobham and Grey, were attainted and corrupted, but not spilt or taken away; but that they remained rather spectacles of justice in their continual imprisonment, than monuments of justice in the memory of their suffering.

It is true, that the objects of his justice then and now were very differing. For then, it was the revenge of an offence against his own person and crown, and upon persons that were malcontents, and contraries to the state and government. But now, it is the revenge of the blood and death of a particular subject, and the cry of a prisoner. It is upon persons that were highly in his favour; whereby his majesty, to his great honour, hath shewed to the world, as if it were written in a sun-beam, that he is truly the lieutenant of Him, with whom there is no respect of persons; that his affections royal are above his affections private: that his favours and nearness about him are not like popish sanctuaries to privilege malefactors: and that his being the best master of the world doth not let him from being the best king of the world. His people, on the other side, may say to themselves, "I will lie down in peace; for God and the king and the law protect me against great and small." It may be a discipline also to great men, especially such as are swoln in fortunes from small beginnings, that the king is as well able to level mountains, as to fill valleys, if such be their desert.

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But to come to the present case; the great frame of justice, my lords, in this present action, hath a vault, and it hath a stage: a vault, wherein these works of darkness were contrived; and a stage with steps, by which they were brought to light. And therefore I will bring this work of justice to the period of this day; and then go on with this day's work.

Sir Thomas Overbury was murdered by poison in the 15th of September, 1613, 11 Reg. This foul and cruel murder did, for a time, cry secretly in the ears of God; but God gave no answer to it, otherwise than by that voice, which sometimes he useth, which is "vox populi," the speech of the people. For there went then a murmur, that Overbury was poisoned: and yet this same submiss and soft voice of God, the speech of the vulgar people, was not without a counter-tenor, or counter-blast of the devil, who is the common author both of murder and slander: for it was given out, that Overbury was dead of a foul disease, and his body, which they had made a "corpus Judaicum" with their poisons, so as it had no whole part, must be said to be leprosed with vice, and so his name poisoned as well as his body. For as to dissoluteness, I never heard the gentleman noted with it: his faults were insolency and turbulency, and the like of that kind: the other part of the soul, not the voluptuous.

Mean time, there was some industry used, of which I will not now speak, to lull asleep those that

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were the revengers of blood; the father and the brother of the murdered. And in these terms things stood by the space almost of two years, during which time God so blinded the two great procurers, and dazzled them with their own greatness, and did bind and nail fast the actors and instruments with security upon their protection, as neither the one looked about them, nor the other stirred or fled, nor were conveyed away; but remaineth here still, as under a privy arrest of God's judgments; insomuch as Franklin, that should have been sent over to the Palsgrave with good store of money, was, by God's providence and the accident of a marriage of his, diverted and stayed.

But about the beginning of the progress last summer, God's judgments began to come out of their depths: and as the revealing of murders is commonly such, as a man may say, "a Domino "hoc factum est;" it is God's work, and it is marvellous in our eyes: so in this particular it is most admirable; for it came forth by a compliment and matter of courtesy.

My lord of Shrewsbury*, that is now with God, recommended to a counsellor of state, of especial trust by his place, the late lieutenant Helwisse†, only

* Gilbert earl of Shrewsbury, knight of the Garter, who died May 8, 1616.

† Sir Gervase Helwisse, appointed lieutenant of the Tower, upon the removal of Sir William Waade on the 6th of May, 1613, ["Reliquiæ Wottonianæ," p. 412, 3d edit. 1672.] Mr. Chamberlain, in a MS. letter to Sir Dudley Carleton, dated

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for acquaintance as an honest worthy gentleman; and desired him to know him, and to be acquainted with him. That counsellor answered him civilly, that my lord did him a favour; and that he should embrace it willingly: but he must let his lordship know, that there did lie a heavy imputation upon that gentleman, Helwisse; for that Sir Thomas Overbury, his prisoner, was thought to have come to a violent and untimely death. When this speech was reported back by my lord of Shrewsbury to Helwisse, "perculit illico animum," he was stricken with it; and being a politic man, and of likelihood doubting that the matter would break forth at one time or other, and that others might have the start of him, and thinking to make his own case by his own tale, resolved with himself, upon this occasion, to discover to my lord of Shrewsbury and that counsellor, that there was an attempt, whereto he was privy, to have poisoned Overbury by the hands of his under-keeper Weston; but that he checked it, and put it by, and dissuaded it, and related so much to him indeed: but

at London, May 13, 1613, speaks of Sir Gervase's promotion in these terms. "One Sir Gervase Helwisse, of Lincolnshire, some-"what an unknown man, is put into the place [of Sir W. "Waade's] by the favour of the lord chamberlain [earl of So-"merset] and his lady. The gentleman is of too mild and gen-"tle a disposition for such an office. He is my old friend and "acquaintance in France, and lately renewed in town, where he "hath lived past a year, nor followed the court many a day." Sir Henry Wotton, in a letter of the 14th of May, 1613, ["ubi "supra," p. 23.] says, that Sir Gervase had been before one of the pensioners.

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then he left it thus, that it was but an attempt, or untimely birth, never executed; and as if his own fault had been no more, but that he was honest in forbidding, but fearful of revealing and impeaching or accusing great persons; and so with this fine point thought to save himself.

But that great counsellor of state wisely considering, that by the lieutenant's own tale it could not be simply a permission or weakness; for that Weston was never displaced by the lieutenant, notwithstanding that attempt; and coupling the sequel by the beginning, thought it matter fit to be brought before his majesty, by whose appointment Helwisse set down the like declaration in writing.

Upon this ground the king playeth Solomon's part, "Gloria Dei celare rem; et Gloria Regis in-"vestigare rem;" and sets down certain papers of his own hand, which I might term to be "claves "justitiæ," keys of justice; and may serve for a precedent both for princes to imitate, and for a direction for judges to follow: and his majesty carried the balance with a constant and steady hand, evenly and without prejudice, whether it were a true accusation of the one part, or a practice and factious device of the other: which writing, because I am not able to express according to the worth thereof, I will desire your lordship anon to hear read.

This excellent foundation of justice being laid by his Majesty's own hand, it was referred unto some counsellors to examine farther, who gained some de-

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grees of light from Weston, but yet left it imperfect.

After it was referred to Sir Edward Coke, chief justice of the King's Bench, as a person best practised in legal examinations, who took a great deal of indefatigable pains in it, without intermission, having, as I have heard him say, taken at least three hundred examinations in this business.

But these things were not done in a corner. I need not speak of them. It is true, that my lord chief justice, in the dawning and opening of the light, finding that the matter touched upon these great persons, very discreetly became suitor to the king to have greater persons than his own rank joined with him. Whereupon, your lordship, my lord High Steward of England, to whom the King commonly resorteth "in arduis," and my lord steward of the king's house, and my lord Zouch, were joined with him.

Neither wanted there this while practice to suppress testimony, to deface writings, to weaken the king's resolution, to slander the justice, and the like. Nay, when it came to the first solemn act of justice, which was the arraignment of Weston, he had his lesson to stand mute; which had arrested the wheel of justice. But this dumb devil, by the means of some discreet divines, and the potent charm of justice, together, was cast out. Neither did this poisonous adder stop his ear to those charms, but relented, and yielded to his trial.

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Then follow the proceedings of justice against the other offenders, Turner, Helwisse, Franklin.

But all these being but the organs and instruments of this fact, the actors and not the authors, justice could not have been crowned without this last act against these great persons. Else Weston's censure or prediction might have been verified, when he said, he hoped the small flies should not be caught and the great escape. Wherein the king being in great straits, between the defacing of his honour and of his creature, hath, according as he useth to do, chosen the better part, reserving always mercy to himself.

The time also of this justice hath had its true motions. The time until this lady's deliverance was due unto honour, Christianity, and humanity, in respect of her great belly. The time since was due to another kind of deliverance too; which was, that some causes of estate, that were in the womb, might likewise be brought forth, not for matter of justice, but for reason of state. Likewise this last procrastination of days had the like weighty grounds and causes. And this is the true and brief representation of this extreme work of the king's justice.

Now for the evidence against this lady, I am sorry I must rip it up. I shall first shew you the purveyance or provisions of the poisons: that they were seven in number brought to this lady, and by her billetted and laid up till they might be used: and this done with an oath or vow of secrecy, which

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is like the Egyptian darkness, a gross and palpable darkness, that may be felt.

Secondly, I shall shew you the exhibiting and sorting of this same number or volley of poisons: white arsenic was fit for salt, because it is of like body and colour. The poison of great spiders, and of the venonious fly cantharides, was fit for pigs sauce or partridge sauce, because it resembled pepper. As for mercury-water, and other poisons, they might be fit for tarts, which is a kind of hotch-pot, wherein no one colour is so proper: and some of these were delivered by the hands of this lady, and some by her direction.

Thirdly, I shall prove and observe unto you the cautions of these poisons; that they might not be too swift, lest the world should startle at it by the suddenness of the dispatch: but they must abide long in the body, and work by degrees: and for this purpose there must be essays of them upon poor beasts, &c.

And lastly, I shall shew you the rewards of this impoisonment, first demanded by Weston, and denied, because the deed was not done; but after the deed done and perpetrated, that Overbury was dead, then performed and paid to the value of 180l.

And so without farther aggravation of that, which in itself bears its own tragedy, I will conclude with the confessions of this lady herself, which is the strongest support of justice; and yet is the footstool of mercy. For, as the Scripture says, "Mercy and

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"truth have kissed each other;" there is no meeting or greeting of mercy, till there be a confession, or trial of truth. For these read,

Franklin, November 16,
Franklin, November 17,
Rich. Weston, October 1,
Rich. Weston, October 2,
Will. Weston, October 2,
Rich. Weston, October 3,
Helwisse, October 2,
The Countess's letter without date,
The Countess's confession, January 8.

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## THE CHARGE, BY WAY OF EVIDENCE, BY SIR FRANCIS BACON, KNIGHT, HIS MAJESTY'S ATTORNEY-GENERAL, BEFORE THE LORD HIGH STEWARD, AND THE PEERS;* AGAINST FRANCES, COUNTESS OF SOMERSET, CONCERNING THE POISONING OF SIR THOMAS OVERBURY.

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*It may please your Grace, my Lord High Steward of England, and you my Lords the Peers:*

I AM very glad to hear this unfortunate lady doth take this course, to confess fully and freely, and thereby to give glory to God and to justice. It is, as I may term it, the nobleness of an offender to confess: and therefore those meaner persons, upon whom justice passed before, confessed not; she doth. I know your lordships cannot behold her without compassion: many things may move you, her youth, her person, her sex, her noble family; yea, her provocations, if I should enter into the cause itself, and furies about her; but chiefly her penitency and confession. But justice is the work of this day; the mercy-seat was in the inner part of the temple; the throne is public. But since this lady hath by her confession prevented my evidence, and your verdict,

* The lord chancellor Egerton, lord Ellesmere, and earl of Bridgwater.

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and that this day's labour is eased; there resteth, in the legal proceeding, but for me to pray that her confession may be recorded, and judgment thereupon.

But because your lordships the peers are met, and that this day and to-morrow are the days that crown all the former justice; and that in these great cases it hath been ever the manner to respect honour and satisfaction, as well as the ordinary parts and forms of justice; the occasion itself admonisheth me to give your lordships and the hearers this contentment, as to make declaration of the proceedings of this excellent work of the king's justice, from the beginning to the end.

It may please your grace, my lord high steward of England: this is now the second time, within the space of thirteen years' reign of our happy sovereign, that this high tribunal-seat, ordained for the trial of peers, hath been opened and erected, and that with a rare event, supplied and exercised by one and the same person, which is a great honour unto you, my lord steward.

In all this mean-time the king hath reigned in his white robe, not sprinkled with any one drop of the blood of any of his nobles of this kingdom. Nay, such have been the depths of his mercy, as even those noblemen's bloods, against whom the proceeding was at Winchester, Cobham and Grey, were attainted and corrupted, but not spilt or taken away; but that they remained rather spectacles of justice in their continual imprisonment,



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than monuments of justice in the memory of their suffering.

It is true that the objects of his justice then and now were very differing: for then it was the revenge of an offence against his own person and crown, and upon persons that were malcontents, and contraries to the state and government; but now it is the revenge of the blood and death of a particular subject, and the cry of a prisoner: it is upon persons that were highly in his favour; whereby his majesty, to his great honour, hath shewed to the world, as if it were written in a sunbeam, that he is truly the lieutenant of Him with whom there is no respect of persons; that his affections royal are above his affections private; that his favours and nearness about him are not like popish sanctuaries, to privilege malefactors; and that his being the best master in the world doth not let him from being the best king in the world. His people, on the other side, may say to themselves, I will lie down in peace, for God, the king, and the law, protect me against great and small. It may be a discipline also to great men, especially such as are swoln in their fortunes from small beginnings, that the king is as well able to level mountains, as to fill valleys, if such be their desert.

But to come to the present case: The great frame of justice, my lords, in this present action, hath a vault, and hath a stage; a vault, wherein these works of darkness were contrived; and a stage, with steps, by which it was brought to light.

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For the former of these, I will not lead your lordships into it, because I will engrieve nothing against a penitent; neither will I open any thing against him that is absent. The one I will give to the laws of humanity, and the other to the laws of justice: for I shall always serve my master with a good and sincere conscience, and, I know, that he accepteth best. Therefore I will reserve that till to-morrow, and hold myself to that which I called the stage or theatre, whereunto indeed it may be fitly compared: for that things were first contained within the invisible judgments of God, as within a curtain, and after came forth, and were acted most worthily by the king, and right well by his ministers.

Sir Thomas Overbury was murdered by poison, September 15, 1613. This foul and cruel murder did for a time cry secretly in the ears of God; but God gave no answer to it, otherwise than by that voice, which sometimes he useth, which is "vox populi," the speech of the people: for there went then a murmur that Overbury was poisoned; and yet the same submiss and low voice of God, the speech of the vulgar people, was not without a counter-tenor or counter-blast of the devil, who is the common author both of murder and slander; for it was given out that Overbury was dead of a foul disease; and his body, which they had made "corpus Judaicum" with their poisons, so as it had no whole part, must be said to be leprosed with vice, and so his name poisoned as well as his body. For as to dissolute-

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ness, I have not heard the gentleman noted with it; his faults were of insolency, turbulency, and the like of that kind.

Mean time there was some industry used, of which I will not now speak, to lull asleep those that were the revengers of the blood, the father and the brother of the murdered. And in these terms things stood by the space of two years, during which time God did so blind the two great procurers, and dazzle them with their greatness, and blind and nail fast the actors and instruments with security upon their protection, as neither the one looked about them, nor the other stirred or fled, or were conveyed away, but remained here still, as under a privy arrest of God's judgments; insomuch as Franklin, that should have been sent over to the Palsgrave with good store of money, was, by God's providence and the accident of a marriage of his, diverted and stayed.

But about the beginning of the progress the last summer, God's judgments began to come out of their depths. And as the revealing of murder is commonly such as a man said, "a Domino hoc factum "est; it is God's work, and it is marvellous in our "eyes:" so in this particular it was most admirable; for it came forth first by a compliment, a matter of courtesy. My lord of Shrewsbury, that is now with God, recommended to a counsellor of state, of special trust by his place, the late lieutenant Helwisse,*

* Called in Sir H. Wotton's Reliq. p. 413. Elvis. In Sir A. Welden's Court of King James, p. 107. Elwaies. In Aulic. Co-

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only for acquaintance, as an honest and worthy gentleman, and desired him to know him, and to be acquainted with him. That counsellor answered him civilly, that my lord did him a favour, and that he should embrace it willingly; but he must let his lordship know, that there did lie a heavy imputation upon that gentleman, Helwisse; for that Sir Thomas Overbury, his prisoner, was thought to have come to a violent and an untimely death. When this speech was reported back by my lord of Shrewsbury to Helwisse, "percussit illico animum," he was strucken with it: and being a politic man, and of likelihood doubting that the matter would break forth at one time or other, and that others might have the start of him, and thinking to make his own case by his own tale, resolved with himself upon this occasion to discover unto my lord of Shrewsbury, and that counsellor, that there was an attempt, whereunto he was privy, to have poisoned Overbury by the hands of his under-keeper Weston; but that he checked it, and put it by, and dissuaded it. But then he left it thus, that it was but as an attempt, or an untimely birth, never executed; and as if his own fault had been no more, but that he was honest in forbidding, but fearful of revealing and impeaching, or accusing great persons: and so with this fine point thought to save himself.

But that counsellor of estate, wisely considering

quin. p. 141. Ellowaies. In Sir W. Dugdale's Baron. of England, tom. ii. p. 425. Elwayes. In Baker, p. 434. Yelvis.

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that by the lieutenant's own tale it could not be simply a permission or weakness; for that Weston was never displaced by the lieutenant, notwithstanding that attempt; and coupling the sequel by the beginning, thought it matter fit to be brought before his majesty, by whose appointment Helwisse set down the like declaration in writing.

Upon this ground the king playeth Solomon's part, "Gloria Dei celare rem, et gloria Regis investigare rem," and sets down certain papers of his own hand, which I might term to be "claves justitiæ," keys of justice; and may serve both for a precedent for princes to imitate, and for a direction for judges to follow. And his majesty carried the balance with a constant and steady hand, evenly and without prejudice, whether it were a true accusation of the one part, or a practice and factious scandal of the other: which writing, because I am not able to express according to the worth thereof, I will desire your lordships anon to hear read.

This excellent foundation of justice being laid by his majesty's own hand, it was referred unto some counsellors to examine farther; who gained some degrees of light from Weston, but yet left it imperfect.

After it was referred to Sir Edward Coke, chief justice of the king's bench, as a person best practised in legal examinations; who took a great deal of indefatigable pains in it without intermission, having, as I have heard him say, taken at least three hundred examinations in this business.

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But these things were not done in a corner, I need not speak of them. It is true that my lord chief justice, in the dawning and opening of the light, finding the matter touched upon these great persons, very discreetly became suitor to the king, to have greater persons than his own rank joined with him; whereupon your lordships, my lord high steward of England, my lord steward of the king's house, and my lord Zouch, were joined with him.

Neither wanted there, this while, practice to suppress testimony, to deface writings, to weaken the king's resolution, to slander the justice, and the like. Nay, when it came to the first solemn act of justice, which was the arraignment of Weston, he had his lesson to stand mute, which had arrested the whole wheel of justice, but this dumb devil, by the means of some discreet divines, and the potant charm of justice together, was cast out; neither did this poisonous adder stop his ear to these charms, but relented, and yielded to his trial.

Then followed the other proceedings of justice against the other offenders, Turner, Helwisse, Franklin.

But all these being but the organs and instruments of this fact, the actors, and not the authors, justice could not have been crowned without this last act against these great persons; else Weston's censure or prediction might have been verified, when he said, he hoped the small flies should not be caught, and the greater escape. Wherein the king, being in

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great straits between the defacing of his honour, and of his creature, hath, according as he used to do, chosen the better part, reserving always mercy to himself.

The time also of justice hath had its true motions. The time until this lady's deliverance was due unto honour, Christianity, and humanity, in respect of her great belly. The time since was due to another kind of deliverance too; which was, that some causes of estate which were in the womb might likewise be brought forth, not for matter of justice, but for reason of state. Likewise this last procrastination of days had the like weighty grounds and causes.

But, my lords, where I speak of a stage, I doubt I hold you upon the stage too long. But before I pray judgment, I pray your lordships to hear the king's papers read, that you may see how well the king was inspired, and how nobly he carried it, that innocency might not have so much as aspersion.

Frances, Countess of Somerset, hath been indicted and arraigned, as accessary before the fact, for the murder and impoisonment of Sir Thomas Overbury, and hath pleaded guilty, and confesseth the indictment: I pray judgment against the prisoner.

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# THE CHARGE OF SIR FRANCIS BACON, KNIGHT, HIS MAJESTY'S ATTORNEY-GENERAL, BY WAY OF EVIDENCE, BEFORE THE LORD HIGH STEWARD, AND THE PEERS, AGAINST ROBERT, EARL OF SOMERSET, CONCERNING THE POISONING OF OVERBURY.

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*It may please your Grace, my lord High Steward of England, and you my lords the Peers:*

You have here before you Robert earl of Somerset, to be tried for his life, concerning the procuring and consenting to the impoisonment of Sir Thomas Overbury, then the king's prisoner in the Tower of London, as an accessary before the fact.

I know your lordships cannot behold this nobleman, but you must remember his great favour with the king, and the great place that he hath had and borne, and must be sensible that he is yet of your number and body, a peer as you are; so that you cannot cut him off from your body but with grief; and therefore that you will expect from us, that give in the king's evidence, sound and sufficient matter of proof to satisfy your honours and consciences.

As for the manner of the evidence, the king our master, who among his other virtues excelleth in that

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virtue of the imperial throne, which is justice, hath given us in commandment that we should not expatiate, nor make invectives, but materially pursue the evidence, as it conduceth to the point in question; a matter, that though we are glad of so good a warrant, yet we should have done of ourselves: for far be it from us, by any strains of wit or art, to seek to play prizes, or to blazon our names in blood, or to carry the day otherwise than upon just grounds. We shall carry the lanthorn of justice, which is the evidence, before your eyes upright, and to be able to save it from being put out with any winds of evasion or vain defences, that is our part; and within that we shall contain ourselves, not doubting at all, but that the evidence itself will carry such force as it shall need no vantage or aggravation.

My lords, the course which I will hold in delivering that which I shall say, for I love order, shall be this:

First, I will speak somewhat of the nature and greatness of the offence which is now to be tried; not to weigh down my lord with the greatness of it, but contrariwise to shew that a great offence deserveth a great proof, and that the king, however he might esteem this gentleman heretofore, as the signet upon his finger, to use the Scripture-phrase, yet in such case as this he was to put him off.

Secondly, I will use some few words touching the nature of the proofs, which in such a case are competent.

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Thirdly, I will state the proofs.

Fourthly and lastly, I will produce the proofs, either out of examinations and matters in writing, or witnesses, " viva voce."

For the offence itself, it is of crimes, next unto high treason, the greatest; it is the foulest of felonies. And take this offence with the circumstances, it hath three degrees or stages; that it is murder; that it is murder by impoisonment; that it is murder committed upon the king's prisoner in the Tower: I might say, that it is murder under the colour of friendship; but this is a circumstance moral; I leave that to the evidence itself.

For murder, my lords, the first record of justice that was in the world was a judgment upon a murderer in the person of Adam's first-born, Cain; and though it was not punished by death, but with banishment and mark of ignominy, in respect of the primogeniture, or population of the world, or other points of God's secret decree, yet it was judged, and was, as it is said, the first record of justice. So it appeareth likewise in Scripture, that the murder of Abner by Joab, though it were by David respited in respect of great services past, or reason of state, yet it was not forgotten. But of this I will say no more. It was ever admitted, and ranked in God's own tables, that murder is of offences between man and man, next unto treason and disobedience unto authority, which some divines have referred to the first table, because of the lieutenancy of God in princes.

For impoisonment, I am sorry it should be heard

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of in this kingdom: it is not "nostri generis nec san-"guinis:" it is an Italian crime, fit for the court of Rome, where that person, which intoxicateth the kings of the earth with his cup of poison, is many times really and materially intoxicated and impoisoned himself.

But it hath three circumstances, which make it grievous beyond other murders: whereof the first is, that it takes away a man in full peace, in God's and the king's peace; he thinketh no harm, but is comforting of nature with refection and food; so that, as the Scripture saith, "his table is made a snare."

The second is, that it is easily committed, and easily concealed; and on the other side, hardly prevented, and hardly discovered: for murder by violence, princes have guards, and private men have houses, attendants, and arms: neither can such murder be committed but "cum sonitu," and with some overt and apparent act that may discover and trace the offender. But as for poison, the cup itself of princes will scarce serve, in regard of many poisons that neither discolour nor distaste.

And the last is, because it concerneth not only the destruction of the maliced man, but of any other; "Quis modo tutus erit?" for many times the poison is prepared for one, and is taken by another: so that men die other men's deaths; "considit infelix alieno "vulnere:" and it is, as the Psalm calleth it, "sa-"gitta nocte volans;" the arrow that flieth by night, it hath no aim or certainty.

Now for the third degree of this particular of-

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fence, which is, that it was committed upon the king's prisoner, who was out of his own defence, and merely in the king's protection, and for whom the king and state was a kind of respondent; is a thing that aggravates the fault much. For certainly, my lord of Somerset, let me tell you this, that Sir Thomas Overbury is the first man that was murdered in the Tower of London, since the murder of the two young princes. Thus much of the offence, now to the proof.

For the nature of the proofs, your lordships must consider, that impoisonment, of all offences is the most secret; so secret, as that if in all cases of impoisonment you should require testimony, you were as good proclaim impunity.

Who could have impeached Livia, by testimony, of the impoisoning figs upon the tree, which her husband was wont to gather with his own hands?

Who could have impeached Parisatis for the poisoning of one side of the knife that she carved with, and keeping the other side clean; so that herself did eat of the same piece of meat that the lady did that she did impoison? The cases are infinite, and need not to be spoken of, of the secrecy of impoisonments; but wise triers must take upon them, in these secret cases, Solomon's spirit, that, where there could be no witnesses, collected the act by the affection.

But yet we are not to come to one case: for that which your lordships are to try is not the act of impoisonment, for that is done to your hand; all the

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world by law is concluded to say, that Overbury was impoisoned by Weston.

But the question before you is of the procurement only, and of the abetting, as the law termeth it, as accessary before the fact: which abetting is no more but to do or use any act or means, which may aid or conduce unto the impoisonment.

So that it is not the buying or making of the poison, or the preparing, or confecting, or commixing of it, or the giving or sending or laying the poison, that are the only acts that do amount unto abetment. But if there be any other act or means done or used to give the opportunity of impoisonment, or to facilitate the execution of it, or to stop or divert any impediments that might hinder it, and this be with an intention to accomplish and achieve the impoisonment; all these are abetments, and accessaries before the fact. I will put you a familiar example. Allow there be a conspiracy to murder a man as he journeys by the way, and it be one man's part to draw him forth to that journey by invitation, or by colour of some business; and another takes upon him to dissuade some friend of his, whom he had a purpose to take in his company, that he be not too strong to make his defence; and another hath the part to go along with him, and to hold him in talk till the first blow be given: all these, my lords, without scruple are abettors to this murder, though none of them give the blow, nor assist to give the blow.

My lords, he is not the hunter alone that lets

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slip the dog upon the deer, but he that lodges the deer, or raises him, or puts him out, or he that sets a toil that he cannot escape, or the like.

But this, my lords, little needeth in this present case, where there is such a chain of acts of impoisonment as hath been seldom seen, and could hardly have been expected, but that greatness of fortune maketh commonly grossness in offending.

To descend to the proofs themselves, I shall keep this course.

First, I will make a narrative or declaration of the fact itself.

Secondly, I will break and distribute the proofs as they concern the prisoner.

And thirdly, according to that distribution, I will produce them, and read them, or use them.

So that there is nothing that I shall say, but your lordship, my lord of Somerset, shall have three thoughts or cogitations to answer it: First, when I open it, you may take your aim. Secondly, when I distribute it, you may prepare your answers without confusion. And lastly, when I produce the witnesses or examinations themselves, you may again ruminate and re-advise how to make your defence. And this I do the rather, because your memory or understanding may not be oppressed or overladen with the length of evidence, or with confusion of order. Nay more, when your lordship shall make your answers in your time, I will put you in mind, when cause shall be, of your omissions.

First, therefore, for the simple narrative of the

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fact. Sir Thomas Overbury for a time was known to have had great interest and great friendship with my lord of Somerset, both in his meaner fortunes, and after; insomuch as he was a kind of oracle of direction unto him; and, if you will believe his own vaunts, being of an insolent Thrasonical disposition, he took upon him, that the fortune, reputation, and understanding of this gentleman, who is well known to have had a better teacher, proceeded from his company and counsel.

And this friendship rested not only in conversation and business of court, but likewise in communication of secrets of estate. For my lord of Somerset, at that time exercising, by his majesty's special favour and trust, the office of the secretary provisionally, did not forbear to acquaint Overbury with the king's packets of dispatches from all parts, Spain, France, the Low Countries, &c. And this not by glimpses, or now and then rounding in the ear for a favour, but in a settled manner: packets were sent, sometimes opened by my lord, sometimes unbroken, unto Overbury, who perused them, copied, registered them, made tables of them as he thought good: so that, I will undertake, the time was when Overbury knew more of the secrets of state than the council-table did. Nay, they were grown to such an inwardness, as they made a play of all the world besides themselves: so as they had ciphers and jargons for the king, the queen, and all the great men; things seldom used, but either by princes and their ambassadors and ministers, or by

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such as work and practise against, or at least upon, princes.

But understand me, my lord, I shall not charge you this day with any disloyalty; only I say this for a foundation, that there was a great communication of secrets between you and Overbury, and that it had relation to matters of estate, and the greatest causes of this kingdom.

But, my lords, as it is a principle in nature, that the best things are in their corruption the worst, and the sweetest wine makes the sharpest vinegar; so fell it out with them, that this excess, as I may term it, of friendship ended in mortal hatred on my lord of Somerset's part.

For it fell out, some twelve months before Overbury's imprisonment in the Tower, that my lord of Somerset was entered into an unlawful love towards his unfortunate lady, then countess of Essex: which went so far, as it was then secretly projected, chiefly between my Lord Privy Seal and my lord of Somerset, to effect a nullity in the marriage with my lord of Essex, and so to proceed to a marriage with Somerset.

This marriage and purpose did Overbury mainly oppugn, under pretence to do the true part of a friend, for that he counted her an unworthy woman; but the truth was, that Overbury, who, to speak plainly, had little that was solid for religion or moral virtue, but was a man possessed with ambition and vain-glory, was loth to have any partners in the favour of my lord of Somerset, and especially not



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the house of the Howards, against whom he had always professed hatred and opposition: so all was but miserable bargains of ambition.

And, my lords, that this is no sinister construction, will well appear unto you, when you shall hear that Overbury makes his brags to my lord of Somerset, that he had won him the love of the lady by his letters and industry: so far was he from cases of conscience in this matter. And certainly, my lords, howsoever the tragical misery of that poor gentleman Overbury ought somewhat to obliterate his faults; yet because we are not now upon point of civility, but to discover the face of truth to the face of justice; and that it is material to the true understanding of the state of this cause; Overbury was naught and corrupt, the ballads must be amended for that point.

But to proceed; when Overbury saw that he was like to be dispossessed of my lord here, whom he had possessed so long, and by whose greatness he had promised himself to do wonders; and being a man of an unbounded and impetuous spirit, he began not only to dissuade, but to deter him from that love and marriage; and finding him fixed, thought to try stronger remedies, supposing that he had my lord's head under his girdle, in respect of communication of secrets of estate, or, as he calls them himself in his letters, secrets of all natures; and therefore dealt violently with him, to make him desist, with menaces of discovery of secrets, and the like.

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Hereupon grew two streams of hatred upon Overbury; the one, from the lady, in respect that he crossed her love, and abused her name, which are furies to women; the other, of a deeper and more mineral nature, from my lord of Somerset himself; who was afraid of Overbury's nature, and that if he did break from him and fly out, he would mine into him and trouble his whole fortunes.

I might add a third stream from the earl of Northampton's ambition, who desires to be first in favour with my lord of Somerset; and knowing Overbury's malice to himself and his house, thought that man must be removed and cut off. So it was amongst them resolved and decreed that Overbury must die.

Hereupon they had variety of devices. To send him beyond sea, upon occasion of employment, that was too weak; and they were so far from giving way to it, as they crossed it. There rested but two ways, quarrel or assault, and poison. For that of assault, after some proposition and attempt, they passed from it; it was a thing too open, and subject to more variety of chances. That of poison likewise was a hazardous thing, and subject to many preventions and cautions; especially to such a jealous and working brain as Overbury had, except he were first fast in their hands.

Therefore the way was first to get him into a trap, and lay him up, and then they could not miss the mark. Therefore in execution of this plot it

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was devised, that Overbury should be designed to some honourable employment in foreign parts, and should under-hand by the lord of Somerset be encouraged to refuse it; and so upon that contempt he should be laid prisoner in the Tower, and then they would look he should be close enough, and death should be his bail. Yet were they not at their end. For they considered that if there was not a fit lieutenant of the Tower for their purpose, and likewise a fit under-keeper of Overbury; first, they should meet with many impediments in the giving and exhibiting the poison. Secondly, they should be exposed to note and observation that might discover them. And thirdly, Overbury in the meantime might write clamourous and furious letters to other his friends, and so all might be disappointed. And therefore the next link of the chain was to displace the then lieutenant Waade, and to place Helwisse, a principal abettor in the impoisonment: again, to displace Cary, that was the under-keeper in Waade's time, and to place Weston, who was the principal actor in the impoisonment: and this was done in such a while, that it may appear to be done, as it were, with one breath, as there were but fifteen days between the commitment of Overbury, the displacing of Waade, the placing of Helwisse, the displacing of Cary the under-keeper, the placing of Weston, and the first poison given two days after.

Then when they had this poor gentleman in the Tower close prisoner, where he could not escape

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nor stir, where he could not feed but by their hands, where he could not speak nor write but through their trunks; then was the time to execute the last act of this tragedy.

Then must Franklin be purveyor of the poisons, and procure five, six, seven several potions, to be sure to hit his complexion. Then must Mrs. Turner be the say-mistress of the poisons to try upon poor beasts, what is present, and what works at distance of time. Then must Weston be the tormentor, and chase him with poison after poison; poison in salts, poison in meats, poison in sweetmeats, poison in medicines and vomits, until at last his body was almost come, by use of poisons, to the state that Mithridates's body was by the use of treacle and preservatives, that the force of the poisons, were blunted upon him: Weston confessing, when he was chid for not dispatching him, that he had given him enough to poison twenty men. Lastly, because all this asked time, courses were taken by Somerset, both to divert all means of Overbury's delivery, and to entertain Overbury by continual letters, partly of hopes and projects for his delivery, and partly of other fables and negociations; somewhat like some kind of persons, which I will not name, which keep men in talk of fortune-telling, when they have a felonious meaning.

And this is the true narrative of this act of impoisonment, which I have summarily recited.

Now for the distribution of the proofs, there are four heads of proofs to prove you guilty, my lord of Somerset, of this impoisonment; whereof two are

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precedent to the imprisonment, the third is present, and the fourth is following or subsequent. For it is in proofs as it is in lights, there is a direct light, and there is a reflexion of light, or back-light.

The first head or proof thereof is, That there was a root of bitterness, a mortal malice or hatred, mixed with deep and bottomless fears, that you had towards Sir Thomas Overbury.

The second is, That you were the principal actor, and had your hand in all those acts, which did conduce to the impoisonment, and which gave opportunity and means to effect it; and without which the impoisonment could never have been, and which could serve or tend to no other end but to the impoisonment.

The third is, That your hand was in the very impoisonment itself, which is more than needs to be proved; that you did direct poison; that you did deliver poison; that you did continually hearken to the success of the impoisonment; and that you spurred it on, and called for dispatch when you thought it lingered.

And lastly, That you did all the things after the impoisonment, which may detect a guilty conscience, for the smothering of it, and avoiding punishment for it: which can be but of three kinds; That you suppressed, as much as in you was, testimony: That you did deface, and destroy, and clip and misdate all writings that might give light to the impoisonment; and that you did fly to the altar of guiltiness,

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which is a pardon, and a pardon of murder, and a pardon for yourself, and not for your lady.

In this, my lord, I convert my speech to you, because I would have you attend the points of your charge, and so of your defence the better. And two of these heads I have taken to myself, and left the other two to the King's two serjeants.

For the first main part, which is, the mortal hatred, coupled with fear, that was in my lord of Somerset towards Overbury, although he did palliate it with a great deal of hypocrisy and dissimulation even to the end; I shall prove it, my lord Steward, and you my lords and peers, manifestly, by matter both of oath and writing. The root of this hatred was that that hath cost many a man's life, that is, fear of discovering secrets: secrets I say, of a high and dangerous nature: Wherein the course that I will hold, shall be this:

First, I will shew that such a breach and malice was between my lord and Overbury, and that it burst forth into violent menaces and threats on both sides.

Secondly, That these secrets were not light, but of a high nature; for I will give you the elevation of the pole. They were such as my lord of Somerset for his part had made a vow, that Overbury should neither live in court nor country. That he had likewise opened himself and his own fears so far, that if Overbury ever came forth of the Tower, either Overbury or himself must die for it. And of

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Overbury's part, he had threatened my lord, that whether he did live or die, my lord's shame should never die, but he would leave him the most odious man of the world. And farther, that my lord was like enough to repent it, in the place where Overbury wrote, which was the Tower of London. He was a true prophet in that: so here is the height of the secrets.

Thirdly, I will shew you, that all the king's business was by my lord put into Overbury's hands: so as there is work enough for secrets, whatsoever they were: and like princes confederates, they had their ciphers and jargons.

And lastly, I will shew you that it is but a toy to say that the malice was only in respect he spake dishonourably of the lady; or for doubt of breaking the marriage: for that Overbury was a coadjutor to that love, and the lord of Somerset was as deep in speaking ill of the lady as Overbury. And again, it was too late for that matter, for the bargain of the match was then made and past. And if it had been no more but to remove Overbury from disturbing of the match, it had been an easy matter to have banded over Overbury beyond seas, for which they had a fair way; but that would not serve their turn.

And lastly, "periculum periculo vincitur", to go so far as an impoisonment, must have a deeper malice than flashes: for the cause must bear a proportion to the effect.

For the next general head of proofs, which con-

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sists in acts preparatory to the middle acts, they are in eight several points of the compass, as I may term it.

First, That there were devices and projects to dispatch Overbury, or to overthrow him, plotted between the countess of Somerset, the earl of Somerset, and the earl of Northampton, before they fell upon the impoisonment: for always before men fix upon a course of mischief, there be some rejections: but die he must one way or other.

Secondly, That my lord of Somerset was a principal practiser, I must speak it, in a most perfidious manner, to set a train or trap for Overbury to get him into the Tower; without which they never durst have attempted the impoisonment.

Thirdly, That the placing of the lieutenant Helwisse, one of the impoisoners, and the displacing of Waade, was by the means of my lord of Somerset.

Fourthly, That the placing of Weston the underkeeper, who was the principal impoisoner, and the displacing of Cary, and the doing of all this within fifteen days after Overbury's commitment, was by the means and countenance of my lord of Somerset. And these two were the active instruments of the impoisonment: and this was a business that the lady's power could not reach unto.

Fifthly, That because there must be a time for the tragedy to be acted, and chiefly because they would not have the poisons work upon the sudden; and for that the strength of Overbury's nature, or

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the very custom of receiving poison into his body, did overcome the poisons, that they wrought not so fast; therefore Overbury must be held in the Tower. And as my lord of Somerset got him into the trap, so he kept him in, and abused him with continual hopes of liberty; and diverted all the true and effectual means of his liberty, and made light of his sickness and extremities.

Sixthly, That not only the plot of getting Overbury into the Tower, and the devices to hold him and keep him there; but the strange manner of his close keeping, being in but for a contempt, was by the device and means of my lord of Somerset, who denied his father to see him, denied his servants that offered to be shut up close prisoners with him; and in effect handled it so, that he was close prisoner to all his friends, and open and exposed to all his enemies.

Seventhly, That the advertisement which my lady received from time to time from the lieutenant or Weston, touching Overbury's state of body or health, were ever sent up to the court, though it were in progress, and that from my lady: such a thirst and listening this lord had to hear that he was dispatched.

Lastly, There was a continual negociation to set Overbury's head on work, that he should make some recognition to clear the honour of the lady; and that he should become a good instrument towards her and her friends: all which was but entertainment; for your lordships shall plainly see divers of

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my lord of Northampton's letters, whose hand was deep in this business, written, I must say it, in dark words and clauses; that there was one thing pretended and another intended; that there was a real charge, and there was somewhat not real; a main drift, and a dissimulation. Nay farther, there be some passages which the peers in their wisdom will discern to point directly at the impoisonment.

[After this inducement followed the evidence itself.]

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TO HIS MAJESTY, ABOUT THE EARL OF SOMERSET.

*It may please your most excellent Majesty,*

AT my last access to your majesty, it was fit for me to consider the time and your journey, which maketh me now trouble your majesty with a remnant of that I thought then to have said: besides your old warrant and commission to me, to advertise your majesty when you are "aux-champs," of any thing that concerned your service and my place. I know your majesty is "nunquam minus solus, quam cum solus;" and I confess, in regard of your great judgment, under which nothing ought to be presented but well weighed, I could almost wish that the manner of Tiberius were in use again, of whom Tacitus saith, "Mos erat quamvis præsentem scripto adire;" much more in absence. I said to your majesty that which I do now repeat, that the evidence upon which my lord of Somerset standeth indicted is of a good strong thread, considering im-

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poisoning is the darkest of offences; but that the thread must be well spun and woven together; for, your majesty knoweth, it is one thing to deal with a jury of Middlesex and Londoners, and another to deal with the peers; whose objects perhaps will not be so much what is before them in the present case, which I think is as odious to them as to the vulgar, but what may be hereafter. Besides, there be two disadvantages, we that shall give in evidence shall meet with, somewhat considerable; the one, that the same things often opened lose their freshness, except there be an aspersion of somewhat that is new; the other is the expectation raised, which makes things seem less than they are, because they are less than opinion. Therefore I were not your attorney, nor myself, if I should not be very careful, that in this last part, which is the pinnacle of your former justice, all things may pass "sine offendiculo, sine scrupulo." Hereupon I did move two things, which, having now more fully explained myself, I do in all humbleness renew. First, that your majesty will be careful to choose a steward of judgment, that may be able to moderate the evidence and cut off digressions; for I may interrupt, but I cannot silence: the other, that there may be special care taken for the ordering the evidence, not only for the knitting, but for the list, and, to use your majesty's own words, the confining of it. This to do, if your majesty vouchsafe to direct it yourself, that is the best; if not, I humbly pray you to require my lord chancellor, that he, together with my lord chief justice,

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will confer with myself, and my fellows, that shall be used for the marshalling and bounding of the evidence, that we may have the help of his opinion, as well as that of my lord chief justice; whose great travels as I much commend, yet that same "plerophoria," or over-confidence, doth always subject things to a great deal of chance.

There is another business proper for me to crave of your majesty at this time, as one that have in my eye a great deal of service to be done concerning your casual revenue; but considering times and persons, I desire to be strengthened by some such form of commandment under your royal hand, as I send you here inclosed. I most humbly pray your majesty to think, I understand myself right well in this which I desire, and that it tendeth greatly to the good of your service. The warrant I mean not to impart, but upon just occasion; thus thirsty to hear of your majesty's good health, I rest ———

22 Jan. 6115.

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TO SIR GEORGE VILLIERS, ABOUT THE EARL OF SOMERSET.

*Sir*,

I THOUGHT it convenient to give his majesty an account of that which his majesty gave me in charge in general, reserving the particulars for his coming; and I find it necessary to know his pleasure in some things ere I could farther proceed.

My lord chancellor and myself spent Thursday and yesterday, the whole forenoons of both days,

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in the examination of Sir Robert Cotton; whom we find hitherto but empty, save only in the great point of the treaty with Spain.

This examination was taken before his majesty's warrant came to Mr. Vice-Chamberlain, for communicating unto us the secrets of the pensions; which warrant I received yesterday morning being Friday, and a meeting was appointed at my lord chancellor's in the evening after council; upon which conference we find matter of farther examination for Sir Robert Cotton, of some new articles whereupon to examine Somerset, and of entering into examination of Sir William Mounson.

Wherefore, first for Somerset, being now ready to proceed to examine him, we stay only upon the duke of Lenox, who it seemeth is fallen sick and keepeth in; without whom, we neither think it warranted by his majesty's direction, nor agreeable to his intention, that we should proceed; for that will want, which should sweeten the cup of medicine, he being his countryman and friend. Herein then we humbly crave his majesty's direction with all convenient speed, whether we shall expect the duke's recovery, or proceed by ourselves; or that his majesty will think of some other person, qualified according to his majesty's just intention, to be joined with us. I remember we had speech with his majesty of my lord Hay; and I, for my part, can think of no other, except it should be my lord chancellor of Scotland, for my lord Binning may be thought too near allied.

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I am farther to know his majesty's pleasure concerning the day; for my lord chancellor and I conceived his majesty to have designed the Monday and Tuesday after St. George's feast; and nevertheless we conceived also, that his majesty understood that the examinations of Somerset about this, and otherwise touching the Spanish practices, should first be put to a point; which will not be possible, as time cometh on, by reason of this accident of the duke's sickness, and the cause we find of Sir William Mounson's examination, and that divers of the peers are to be sent for from remote places.

It may please his majesty therefore to take into consideration, whether the days may not well be put off till Wednesday and Thursday after the term, which endeth on the Monday, being the Wednesday and Thursday before Whitsuntide; or, if that please not his majesty, in respect, it may be, his majesty will be then in town, whereas these arraignments have been still in his majesty's absence from town, then to take Monday and Tuesday after Trinity Sunday, being the Monday and Tuesday before Trinity term.

Now for Sir William Mounson, if it be his majesty's pleasure that my lord chancellor and I shall proceed to the examination of him, for that of the duke of Lenox differs, in that there is not the like cause as in that of Somerset, then his majesty may be pleased to direct his commandment and warrant to my lord chief justice, to deliver unto me the examination he took of Sir William Mounson, that

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those, joined to the information which we have received from Mr. Vice-Chamberlain, may be full instructions unto us for his examination. Farther, I pray let his majesty know, that on Thursday in the evening my lord chief justice and myself attended my lord chancellor at his house for the settling that scruple which his majesty most justly conceived in the examination of the lady Somerset; at which time, resting on his majesty's opinion, that that evidence, as it standeth now uncleared, must "secundum leges sanæ conscientiæ" be laid aside; the question was, whether we should leave it out, or try what a re-examination of my lady Somerset would produce? Whereupon we agreed upon a re-examination of my lady Somerset, which my lord chief justice and I have appointed for Monday morning. I was bold at that meeting to put my lord chief justice a posing question; which was, Whether that opinion which his brethren had given upon the whole evidence, and he had reported to his majesty, namely, that it was good evidence, in their opinions, to convict my lord of Somerset, was not grounded upon this part of the evidence now to be omitted, as well as upon the rest: who answered positively, No; and they never saw the exposition of the letter, but the letter only.

The same Thursday evening, before we entered into this last matter, and in the presence of Mr. Secretary Winwood, who left us when we went to the former business, we had conference concerning the frauds and abusive grants passed to the prejudice of

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his majesty's state of revenue; where my lord chief justice made some relation of his collections which he had made of that kind; of which I will only say this, that I heard nothing that was new to me, and I found my lord chancellor in divers particulars, more ready than I had found him. We grew to a distribution both of times and of matters, for we agreed what to begin with presently, and what should follow, and also we had consideration what was to be holpen by law, what by equity, and what by parliament; wherein I must confess, that in the last of these, of which my lord chief justice made most account, I make most doubt. But the conclusion was, that upon this entrance I should advise and confer at large with my lord chief justice, and set things in work. The particulars I refer till his majesty's coming.

The learned counsel have now attended me twice at my chamber, to confer upon that which is majesty gave us in commandment for our opinion upon the case set down by my lord chancellor, whether the statutes extend to it or no; wherein we are more and more edified and confirmed that they do not, and shall shortly send our report to his majesty.

Sir, I hope you will bear me witness I have not been idle; but all is nothing to the duty I owe his majesty for his singular favours past and present; supplying all with love and prayers, I rest,

Your true friend and devoted servant,

April 13, 1616. Fr. Bacon.



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TO SIR GEORGE VILLIERS, ABOUT THE EARL OF SOMERSET.

*Sir,*

I RECEIVED from you a letter of very brief and clear directions; and I think it a great blessing of God upon me and my labours, that my directions come by so clear a conduit, as they receive no tincture in the passage.

Yesterday my lord chancellor, the duke of Lenox, and myself, spent the whole afternoon at the Tower, in the examination of Somerset, upon the articles sent from his majesty, and some other additionals, which were in effect contained in the former, but extended to more particularity, by occasion of somewhat discovered by Cotton's examination and Mr. Vice-Chamberlain's information.

He is full of protestations, and would fain keep that quarter toward Spain clear: using but this for argument, that he had such fortunes from his majesty, as he could not think of bettering his conditions from Spain, because, as he said, he was no military man. He cometh nothing so far on, for that which concerneth the treaty, as Cotton, which doth much aggravate suspicion against him: the farther particulars I reserve to his majesty's coming.

In the end, "tanquam obiter," but very effectually, my lord chancellor put him in mind of the state he stood in for the impoisonment; but he was little moved with it, and pretended carelessness of life, since ignominy had made him unfit for his ma-

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jesty's service. I am of opinion that the fair usage of him, as it was fit for the Spanish examinations, and for the questions touching the papers and dispatches, and all that, so it was no good preparative to make him descend into himself touching his present danger: and therefore my lord chancellor and myself thought not good to insist upon it at this time.

I have received from my lord chief justice the examination of Sir William Mounson; with whom we mean to proceed to farther examination with all speed.

My lord chief justice is altered touching the re-examination of the lady, and desired me that we might stay till he spake with his majesty, saying it could be no casting back to the business; which I did approve.

Myself with the rest of my fellows, upon due and mature advice, perfected our report touching the chancery; for the receiving whereof, I pray you put his majesty in mind at his coming, to appoint some time for us to wait upon him altogether, for the delivery in of the same, as we did in our former certificate.

For the revenue matters, I reserve them to his majesty's coming; and in the mean time I doubt not but Mr. Secretary Winwood will make some kind of report thereof to his majesty.

For the conclusion of your letter concerning my own comfort, I can but say the Psalm of "Quid retribuam?" God that giveth me favour in his ma-

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jesty's eyes, will strengthen me in his majesty's service. I ever rest

Your true and devoted servant,

April 18, 1616. FR. BACON.

To requite your postscript of excuse for scribbling, I pray you excuse that the paper is not gilt, I writing from Westminster-Hall, where we are not so fine.

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### A LETTER TO THE KING, WITH HIS MAJESTY'S OBSERVATIONS UPON IT.

*It may please your most excellent Majesty,*

YOUR MAJESTY hath put me upon a work of providence in this great cause, which is to break and distinguish future events into present cases; and so to present them to your royal judgment, that, in this action, which hath been carried with so great prudence, justice, and clemency, there may be, for that which remaineth, as little surprise as is possible; but that things duly foreseen may have their remedies and directions in readiness; wherein I cannot forget what the poet Martial saith; "O quantum est subitis casibus ingenium!" signifying, that accident is many times more subtle than foresight, and overreacheth expectation; and besides, I know very well the meanness of my own judgment, in comprehending or forecasting what may follow.

It was your majesty's pleasure also, that I should couple the suppositions with my opinion in every of them, which is a harder task; but yet your ma-

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jesty's commandment requireth my obedience, and your trust giveth me assurance.

I will put the case, which I wish; that Somerset should make a clear confession of his offences, before he be produced to trial.

In this case it seemeth your majesty will have a new consult; the points whereof will be, 1. Whether your majesty will stay the trial, and so save them both from the stage, and that public ignominy. 2. Or whether you will, or may fitly by law, have the trial proceed, and stay or reprieve the judgment, which saveth the lands from forfeiture, and the blood from corruption. 3. Or whether you will have both trial and judgment proceed, and save the blood only, not from corrupting, but from spilling.

These be the depths of your majesty's mercy which I may not enter into: but for honour and reputation they have these grounds:

That the blood of Overbury is already revenged by divers executions.

That confession and penitency are the footstools of mercy; adding this circumstance likewise, that the former offenders did none of them make a clear confession.

That the great downfal of so great persons carrieth in itself a heavy judgment, and a kind of civil death, although their lives should not be taken.

All which may satisfy honour for sparing their lives. But if your majesty's mercy should extend to the first degree, which is the highest, of sparing

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the stage and the trial; then three things are to be considered:

First, That they make such a submission or deprecation, as they prostrate themselves, and all that they have, at your majesty's feet, imploring your mercy.

Secondly, That your majesty, in your own wisdom, do advise what course you will take, for the utter extinguishing of all hopes of resuscitating of their fortunes and favour; whereof if there should be the least conceit, it will leave in men a great deal of envy and discontent.

And lastly; whether your majesty will not suffer it to be thought abroad, that there is cause of farther examination of Somerset, concerning matters of estate, after he shall begin once to be a confessant, and so make as well a politic ground, as a ground of clemency, for farther stay.

And for the second degree, of proceeding to trial, and staying judgment, I must better inform myself by precedents, and advise with my lord chancellor.

The second case is, if that fall out which is likest, as things stand, and which we expect, which is, that the lady confess; and that Somerset himself plead not guilty, and be found guilty:

In this case, first, I suppose your majesty will not think of any stay of judgment, but that the public process of justice pass on.

Secondly, For your mercy to be extended to both for pardon of their execution, I have partly

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touched in the considerations applied to the former case; whereunto may be added, that as there is ground of mercy for her, upon her penitency and free confession, and will be much more upon his finding guilty; because the malice on his part will be thought the deeper source of the offence; so there will be ground for mercy on his part, upon the nature of the proof; and because it rests chiefly upon presumptions. For certainly there may be an evidence so balanced, as it may have sufficient matter for the conscience of the peers to convict him, and yet leave sufficient matter in the conscience of a king upon the same evidence to pardon his life; because the peers are astringed by necessity either to acquit or condemn; but grace is free: and for my part, I think the evidence in this present case will be of such a nature.

Thirdly, It shall be my care so to moderate the manner of charging him, as it might make him not odious beyond the extent of mercy.

Lastly, All these points of mercy and favour are to be understood with this limitation, if he do not, by his contemptuous and insolent carriage at the bar, make himself incapable and unworthy of them.

The third case is, if he should stand mute and will not plead, whereof, your majesty knoweth, there hath been some secret question.

In this case I should think fit, that, as in public, both myself, and chiefly my lord chancellor, sitting then as lord Steward of England, should dehort and deter him from that desperation; so nevertheless, that as much should be done for him, as was done

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for Weston; which was to adjourn the court for some days, upon a Christian ground, that he may have time to turn from that mind of destroying himself; during which time your majesty's farther pleasure may be known.

The fourth case is that which I should be very sorry it should happen, but it is a future contingent; that is, if the peers should acquit him and find him not guilty.

In this case the lord Steward must be provided what to do. For as it hath been never seen, as I conceive it, that there should be any rejecting of the verdict, or any respiting of the judgment of the acquittal; so on the other side this case requireth, that because there be many high and heinous offences, though not capital, for which he may be questioned in the Star-chamber, or otherwise, that there be some touch of that in general at the conclusion, by my lord Steward of England; and that therefore he be remanded to the Tower as close prisoner.

For the matter of examination, or other proceedings, my lord chancellor with my advice hath set down,

To-morrow, being Monday, for the re-examination of the lady:

Wednesday next, for the meeting of the judges concerning the evidence:

Thursday, for the examination of Somerset himself, according to your majesty's instructions:

Which three parts, when they shall be performed, I will give your majesty advertisement with speed, and in the mean time be glad to receive from your

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majesty, whom it is my part to inform truly, such directions or significations of your pleasure as this advertsement may induce, and that with speed, because the time cometh on. Well remembering who is the person whom your majesty admitted to this secret, I have sent this letter open unto him, that he may take your majesty's times to report it, or shew it unto you; assuring myself that nothing is more firm than his trust, tied to your majesty's commandments.

Your majesty's most humble
and most bounden subject and servant,
FR. BACON.

April 28, 1616.

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TO SIR GEORGE VILLIERS, ABOUT THE EARL OF SOMERSET.

*Sir,*

I HAVE received my letter from his majesty with his marginal notes, which shall be my directions, being glad to perceive I understand his majesty so well. That same little charm, which may be secretly infused into Somerset's ear some few hours before his trial, was excellently well thought of by his majesty; and I do approve it both for matter and time; only if it seem good to his majesty, I would wish it a little enlarged: for if it be no more than to spare his blood, he hath a kind of proud humour which may overwork the medicine. Therefore I could wish it were made a little stronger, by giving him some hopes that his majesty will be good to his lady

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and child; and that time, when justice and his majesty's honour is once saved and satisfied, may produce farther fruit of his majesty's compassion: which was to be seen in the example of Southampton, whom his majesty after attainder restored: and Cobham and Gray, to whom his majesty, notwithstanding they were offenders against his own person, yet he spared their lives; and for Gray, his majesty gave him back some part of his estate, and was upon point to deliver him much more. He having been so highly in his majesty's favour, may hope well, if he hurt not himself by his public misdemeanour.

For the person that should deliver this message, I am not so well seen in the region of his friends, as to be able to make choice of a particular; my lord treasurer, the lord Knollys, or any of his nearest friends, should not be trusted with it, for they may go too far, and perhaps work contrary to his majesty's ends. Those which occur to me, are my lord Hay, my lord Burleigh, of England I mean, and Sir Robert Carre.

My lady Somerset hath been re-examined, and his majesty is found both a true prophet and a most just king in that scruple he made; for now she expoundeth the word He, that should send the tarts to Elwys's wife, to be of Overbury, and not of Somerset; but for the person that should bid her, she said it was Northampton or Weston, not pitching upon certainty, which giveth some advantage to the evidence.

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Yesterday being Wednesday, I spent four or five hours with the judges whom his majesty designed to take consideration with, the four judges of the king's bench, of the evidence against Somerset: they all concur in opinion, that the questioning and drawing him on to trial is most honourable and just, and that the evidence is fair and good.

His majesty's letter to the judges concerning the "Commendams" was full of magnanimity and wisdom. I perceive his majesty is never less alone, than when he is alone; for I am sure there was no body by him to inform him, which made me admire it the more.

The judges have given a day over, till the second Saturday of the next term; so as that matter may endure farther consideration, for his majesty not only not to lose ground, but to win ground.

To-morrow is appointed for the examination of Somerset, which by some infirmity of the duke of Lenox was put off from this day. When this is done, I will write more fully, ever resting

Your true and devoted servant,

FR. BACON.

May 2, 1616.

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TO SIR GEORGE VILLIERS, OF SOMERSET'S ARRAIGNMENT.

*Sir,*

I AM far enough from opinion, that the redintegration or resuscitation of Somerset's fortune can ever stand with his majesty's honour and safety; and

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therein I think I expressed myself fully to his majesty in one of my former letters; and I know well any expectation or thought abroad will do much hurt. But yet the glimmering of that which the king hath done to others, by way of talk to him, cannot hurt, as I conceive; but I would not have that part of the message as from the king, but added by the messenger as from himself. This I remit to his majesty's princely judgment.

For the person, though he trust the lieutenant well, yet it must be some new man: for, in these cases, that which is ordinary worketh not so great impressions as that which is new and extraordinary.

The time I wish to be the Tuesday, being the even of his lady's arraignment; for, as his majesty first conceived, I would not have it stay in his stomach too long, lest it sour in the digestion; and to be too near the time, may be thought but to tune him for that day.

I send herewithal the substance of that which I purpose to say nakedly, and only in that part which is of tenderness; for that I conceive was his majesty's meaning.

It will be necessary, because I have distributed parts to the two serjeants, as that paper doth express, and they understand nothing of his majesty's pleasure of the manner of carrying the evidence more than they may guess by observation of my example, which they may ascribe as much to my nature as to direction; therefore that his majesty would be pleased to write some few words to us all,

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signed with his own hand, that, the matter itself being tragical enough, bitterness and insulting be forborn; and that we remember our part to be to make him delinquent to the peers, and not odious to the people. That part of the evidence of the lady's exposition of the pronoun, he, which was first caught hold of by me, and afterwards by his majesty's singular wisdom and conscience excepted to, and now is by her re-examination retracted, I have given order to serjeant Montague, within whose part it falleth, to leave it out of the evidence. I do yet crave pardon, if I do not certify touching the point of law for respiting the judgment, for I have not fully advised with my lord chancellor concerning it, but I will advertise it in time.

I send his majesty the lord steward's commission in two several instruments, the one to remain with my lord chancellor, which is that which is written in secretary-hand for his warrant, and is to pass the signet; the other, that whereunto the great seal is to be affixed, which is in chancery-hand: his majesty is to sign them both, and to transmit the former to the signet, if the secretaries either of them be there; and both of them are to be returned to me with all speed. I ever rest,

Your true and devoted servant,

FR. BACON.

May 5, 1616.

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TO THE KING, ABOUT SOMERSET'S EXAMINATION.

*It may please your Majesty,*

We have done our best endeavours to perform your majesty's commission, both in matter and manner, for the examination of my lord of Somerset; wherein that which passed, for the general, was to this effect; That he was to know his own case, for that his day of trial could not be far off; but that this day's work was that which would conduce to your majesty's justice little or nothing, but to your mercy much, if he did lay hold upon it; and therefore might do him good, but could do him no hurt. For as for your justice, there had been taken great and grave opinion, not only of such judges as he may think violent, but of the most sad and most temperate of the kingdom, who ought to understand the state of the proofs, that the evidence was full to convict him, so as there needeth neither confession, nor supply of examination. But for your majesty's mercy, although he were not to expect we should make any promise, we did assure him, that your majesty was compassionate of him if he gave you some ground whereon to work; that as long as he stood upon his innocency and trial, your majesty was tied in honour to proceed according to justice; and that he little understood, being a close prisoner, how much the expectation of the world, besides your love to justice itself, engaged your majesty, whatsoever your incli-

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nations were: but nevertheless that a frank and clear confession might open the gate of mercy, and help to satisfy the point of honour.

That his lady, as he knew, and that after many oaths and imprecations to the contrary, had nevertheless in the end, being touched with remorse, confessed; that she that led him to offend, might lead him likewise to repent of his offence: that the confession of one of them could not fitly do either of them much good, but the confession of both of them might work some farther effect towards both: and therefore, in conclusion, we wished him not to shut the gate of your majesty's mercy against himself, by being obdurate any longer. This was the effect of that which was spoken, part by one of us, part by another, as it fell out; adding farther, that he might well discern who spake in us in the course we held; for that commissioners for examination might not presume so far of themselves.

Not to trouble your majesty with circumstances of his answers, the sequel was no other, but that we found him still not to come any degree farther on to confess; only his behaviour was very sober, and modest, and mild, differing apparently from other times, but yet, as it seemed, resolved to have his trial.

Then did we proceed to examine him upon divers questions touching the empoisonment, which indeed were very material and supplemental to the former evidence; wherein either his affirmatives gave some

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light, or his negatives do greatly falsify him in that which is apparently proved.

We made this farther observation; that when we asked him some question that did touch the prince or some foreign practice, which we did very sparingly at this time, yet he grew a little stirred, but in the questions of the impoisonment very cold and modest. Thus not thinking it necessary to trouble your majesty with any farther particulars, we end with prayer to God ever to preserve your majesty.

Your majesty's most loyal and faithful servant,

FR. BACON.

*Postscript.* If it seem good unto your majesty, we think it not amiss some preacher, well chosen, had access to my lord of Somerset for his preparing and comfort, although it be before his trial.

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TO SIR GEORGE VILLIERS.

*Sir,*

I SEND you inclosed a warrant for my lady of Somerset's pardon, reformed in that main and material point, of inserting a clause [that she was not a principal, but an accessary before the fact, by the instigation of base persons.] Her friends think long to have it dispatched, which I marvel not at, for that in matter of life moments are numbered.

I do more and more take contentment in his majesty's choice of Sir Oliver St. John, for his deputy

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of Ireland, finding upon divers conferences with him, his great sufficiency; and I hope the good intelligence, which he purposeth to hold with me by advertisements from time to time, shall work a good effect for his majesty's service.

I am wonderful desirous to see that kingdom flourish, because it is the proper work and glory of his majesty and his times. And his majesty may be pleased to call to mind, that a good while since, when the great rent and divisions were in the parliament of Ireland, I was no unfortunate remembrancer to his majesty's princely wisdom in that business. God ever keep you and prosper you.

Your true and most devoted and bounden servant,

FR. BACON.



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# PAPERS

RELATING TO

# THE EARL OF ESSEX.

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# THE APOLOGY OF SIR FRANCIS BACON, IN CERTAIN IMPUTATIONS CONCERNING THE LATE EARL OF ESSEX, TO THE RIGHT HONOURABLE HIS VERY GOOD LORD THE EARL OF DEVONSHIRE, LORD LIEUTENANT OF IRELAND.

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It may please your good lordship, I cannot be ignorant, and ought to be sensible of the wrong which I sustain in common speech, as if I had been false or unthankful to that noble, but unfortunate earl, the earl of Essex: and for satisfying the vulgar sort, I do not so much regard it; though I love a good name, but yet as an handmaid and attendant of honesty and virtue. For I am of his opinion that said pleasantly, "That it was a shame to him that was a suitor to the mistress, to make love to the waiting-woman;" and therefore to woo or court common fame, otherwise than it followeth on honest courses, I, for my part, find not myself fit or disposed. But, on the other side, there is no worldly thing that concerneth myself, which I hold more dear than the good opinion of certain persons; among which there is none I would more willingly give satisfaction unto, than to your lordship. First, because you loved my lord of Essex, and therefore will not be partial towards me, which is part of that

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I desire: next, because it hath ever pleased you to shew yourself to me an honourable friend, and so no baseness in me to seek to satisfy you: and lastly, because I know your lordship is excellently grounded in the true rules and habits of duties and moralities, which must be they which shall decide this matter; wherein, my lord, my defence needeth to be but simple and brief; namely, that whatsoever I did concerning that action and proceeding, was done in my duty and service to the queen and the state; in which I would not shew myself false-hearted, nor faint-hearted, for any man's sake living. For every honest man that hath his heart well planted, will forsake his king rather than forsake God, and forsake his friend rather than forsake his king; and yet will forsake any earthly commodity, yea, and his own life in some cases, rather than forsake his friend. I hope the world hath not forgotten these degrees, else the heathen saying, "Amicus usque ad aras," shall judge them.

And if any man shall say, I did officiously intrude myself into that business, because I had no ordinary place; the like may be said of all the business in effect that passed the hands of the learned counsel, either of state or revenues, these many years, wherein I was continually used. For, as your lordship may remember, the queen knew her strength so well, as she looked her word should be a warrant; and, after the manner of the choicest princes before her, did not always tie her trust to place, but did sometime divide private favour from office. And I for my part,

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though I was not so unseen in the world, but I knew the condition was subject to envy and peril; yet because I knew again she was constant in her favours, and made an end where she began; and especially because she upheld me with extraordinary access, and other demonstrations of confidence and grace, I resolved to endure it in expectation of better. But my scope and desire is, that your lordship would be pleased to have the honourable patience to know the truth, in some particularity, of all that passed in this cause, wherein I had any part, that you may perceive how honest a heart I ever bare to my sovereign, and to my country, and to that nobleman, who had so well deserved of me, and so well accepted of my deservings, whose fortune I cannot remember without much grief. But for any action of mine towards him, there is nothing that passed me in my life-time, that cometh to my remembrance with more clearness, and less check of conscience: for it will appear to your lordship, that I was not only not opposite to my lord of Essex, but that I did occupy the utmost of my wits, and adventure my fortune with the queen, to have reintegrated his, and so continued faithfully and industriously, till his last fatal impatience, for so I will call it, after which day there was not time to work for him; though the same, my affection, when it could not work on the subject proper, went to the next, with no ill effect towards some others, who I think, do rather not know it, than not acknowledge it. And this I will assure your lordship, I will leave nothing untold,

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that is truth, for any enemy that I have, to add; and on the other side, I must reserve much which makes for me, in many respects of duty, which I esteem above my credit: and what I have here set down to your lordship, I protest, as I hope to have any part in God's favour, is true.

It is well known, how I did many years since dedicate my travels and studies to the use, and, as I may term it, service of my lord of Essex, which, I protest before God, I did not, making election of him as the likeliest mean of mine own advancement, but out of the humour of a man, that ever from the time I had any use of reason, whether it were reading upon good books, or upon the example of a good father, or by nature, I loved my country more than was answerable to my fortune; and I held at that time my lord to be the fittest instrument to do good to the state, and therefore I applied myself to him in a manner which I think happeneth rarely among men: for I did not only labour carefully and industriously in that he set me about, whether it were matter of advice or otherwise, but, neglecting the queen's service, mine own fortune, and in a sort my vocation, I did nothing but advise and ruminate with myself, to the best of my understanding, propositions and memorials of any thing that might concern his lordship's honour, fortune, or service. And when, not long after I entered into this course, my brother, Mr. Anthony Bacon came from beyond the seas, being a gentleman whose ability the world taketh knowledge of for matters of state, especially

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foreign, I did likewise knit his service to be at my lord's disposing. And on the other side, I must and will ever acknowledge my lord's love, trust, and favour towards me; and last of all his liberality, having infeoffed me of land which I sold for eighteen hundred pounds to Mr. Reynold Nicholas, which, I think, was more worth; and that at such a time, and with so kind and noble circumstances, as the manner was as much as the matter; which, though it be but an idle digression, yet because I am not willing to be short in commemoration of his benefits, I will presume to trouble your lordship with relating to you the manner of it. After the queen had denied me the solicitor's place, for the which his lordship had been a long and earnest suitor on my behalf, it pleased him to come to me from Richmond to Twickenham Park, and brake with me, and said: "Mr. Bacon, the queen hath "denied me the place for you, and hath placed an- "other; I know you are the least part of your own "matter, but you fare ill because you have chosen "me for your mean and dependence: you have "spent your time and thoughts in my matters; I "die," these were his very words, "if I do not some- "what towards your fortune, you shall not deny to "accept a piece of land which I will bestow upon "you." My answer, I remember, was, that for my fortune it was no great matter; but that his lordship's offer made me call to mind what was wont to be said, when I was in France, of the duke of Guise, that he was the greatest usurer in France, because he had

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turned all his estate into obligations: meaning, that he had left himself nothing, but only had bound numbers of persons to him. "Now, my lord, said "I, I would not have you imitate his course, nor "turn your estate thus by great gifts into obliga- "tions, for you will find many bad debtors." He bade me take no care for that, and pressed it: whereupon I said, "My lord, I see I must be your "homager, and hold land of your gift; but do you "know the manner of doing homage in law? Al- "ways it is with a saving of his faith to the king "and his other lords; and therefore, my lord, said "I, I can be no more yours than I was, and it must "be with the ancient savings: and if I grow to be "a rich man, you will give me leave to give it back "again to some of your unrewarded followers."

But to return: sure I am, though I can arrogate nothing to myself but that I was a faithful remembrancer to his lordship, that while I had most credit with him his fortune went on best: and yet in two main points we always directly and contradictorily differed, which I will mention to your lordship, because it giveth light to all that followed. The one was, I ever set this down, that the only course to be held with the queen, was by obsequiousness and observance; and I remember I would usually engage confidently, that if he would take that course constantly, and with choice of good particulars to express it, the queen would be brought in time to Ahasuerus's question, to ask, "What should be done "to the man that the king would honour?" Mean-

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ing, that her goodness was without limit, where there was a true concurrence: which I knew in her nature to be true. My lord, on the other side, had a settled opinion, that the queen could be brought to nothing but by a kind of necessity and authority; and I well remember, when by violent courses at any time he had got his will, he would ask me, "Now, Sir, "whose principles be true?" And I would again say to him; "My lord, these courses be like to "hot waters, they will help at a pang; but if you "use them you shall spoil the stomach, and you "shall be fain still to make them stronger, and "stronger, and yet in the end they will lessen their "operation;" with much other variety, wherewith I used to touch that string. Another point was, that I always vehemently dissuaded him from seeking greatness by a military dependence, or by a popular dependence, as that which would breed in the queen jealousy, in himself presumption, and in the state perturbation: and I did usually compare them to Icarus's two wings, which were joined on with wax, and would make him venture to soar too high, and then fail him at the height. And I would farther say unto him; "My lord, stand upon two feet, and "fly not upon two wings: the two feet are the two "kinds of justice, commutative, and distributive: "use your greatness for advancing of merit and vir- "tue, and relieving wrongs and burthens; you shall "need no other art or finesse:" but he would tell me, that opinion came not from my mind, but from my robe. But it is very true, that I, that never

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meant to enthral myself to my lord of Essex, nor any other man, more than stood with the public good, did, though I could little prevail, divert him by all means possible from courses of the wars and popularity: for I saw plainly the queen must either live or die; if she lived, then the times would be as in the declination of an old prince; if she died, the times would be as in the beginning of a new; and that if his lordship did rise too fast in these courses, the times might be dangerous for him, and he for them. Nay, I remember, I was thus plain with him upon his voyage to the islands, when I saw every spring put forth such actions of charge and provocation, that I said to him, "My lord, when I came "first unto you, I took you for a physician that de- "sired to cure the diseases of the state; but now I "doubt you will be like those physicians which can "be content to keep their patients low, because they "would always be in request." Which plainness he nevertheless took very well, as he had an excellent ear, and was "patientissimus veri," and assured me the case of the realm required it: and I think this speech of mine, and the like renewed afterwards, pricked him to write that Apology which is in many men's hands.

But this difference in two points so main and material, bred in process of time a discontinuance of privateness, as it is the manner of men seldom to communicate where they think their courses not approved, between his lordship and myself: so as I was not called nor advised with for some year and a half

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before his lordship's going into Ireland, as in former time: yet, nevertheless, touching his going into Ireland, it pleased him expressly, and in a set manner, to desire mine opinion and counsel. At which time I did not only dissuade, but protest against his going; telling him, with as much vehemency and asseveration as I could, that absence in that kind would exulcerate the queen's mind, whereby it would not be possible for him to carry himself so as to give her sufficient contentment; nor for her to carry herself so as to give him sufficient countenance: which would be ill for her, ill for him, and ill for the state. And because I would omit no argument, I remember I stood also upon the difficulty of the action; setting before him out of histories, that the Irish was such an enemy as the ancient Gauls, or Britons, or Germans were; and that we saw how the Romans, who had such discipline to govern their soldiers, and such donatives to encourage them, and the whole world in a manner to levy them; yet when they came to deal with enemies, which placed their felicity only in liberty, and the sharpness of their sword, and had the natural elemental advantages of woods, and bogs, and hardness of bodies, they ever found they had their hands full of them; and therefore concluded, that going over with such expectation as he did, and through the churlishness of the enterprize not like to answer it, would mightily diminish his reputation: and many other reasons I used, so as I am sure I never in any thing in my life-time dealt with him in like

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earnestness by speech, by writing, and by all the means I could devise. For I did as plainly see his overthrow chained, as it were by destiny, to that journey, as it is possible for any man to ground a judgment upon future contingents. But my lord, howsoever his ear was open, yet his heart and resolution was shut against that advice, whereby his ruin might have been prevented. After my lord's going, I saw then how true a prophet I was, in regard of the evident alteration which naturally succeeded in the queen's mind; and thereupon I was still in watch to find the best occasion that in the weakness of my power I could either take or minister, to pull him out of the fire, if it had been possible: and not long after, methought I saw some overture thereof, which I apprehended readily; a particularity which I think to be known to very few, and the which I do the rather relate unto your lordship, because I hear it should be talked, that while my lord was in Ireland I revealed some matters against him, or I cannot tell what; which if it were not a mere slander as the rest is, but had any, though never so little, colour, was surely upon this occasion. The queen, one day at Nonesuch, a little, as I remember, before Cuffe's coming over, where I attended her, shewed a passionate distaste of my lord's proceedings in Ireland, as if they were unfortunate, without judgment, contemptuous, and not without some private end of his own, and all that might be; and was pleased, as she spake of it to many that she trusted least, so to fall into the like

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speech with me. Whereupon I, who was still awake, and true to my grounds, which I thought surest for my lord's good, said to this effect: "Madam, I "know not the particulars of estate, and I know "this, that princes actions must have no abrupt "periods or conclusions; but otherwise I would think, "that if you had my lord of Essex here with a white "staff in his hand, as my lord of Leicester had, and "continued him still about you for society to your-"self, and for an honour and ornament to your at-"tendance and court in the eyes of your people, "and in the eyes of foreign ambassadors, then were "he in his right element; for to discontent him as "you do, and yet to put arms and power into his "hands, may be a kind of temptation to make "him prove cumbersome and unruly. And there-"fore if you would 'imponere bonam clausu-"lam,' and send for him, and satisfy him with ho-"nour here near you, if your affairs, which, as I "have said, I am not acquainted with, will permit "it, I think were the best way." Which course, your lordship knoweth, if it had been taken, then all had been well, and no contempt in my lord's coming over, nor continuance of these jealousies, which that employment of Ireland bred, and my lord here in his former greatness. Well, the next news that I heard was, that my lord was come over, and that he was committed to his chamber for leaving Ireland without the queen's licence; this was at Nonesuch, where, as my duty was, I came to his lordship, and talked with him privately about a quarter of an hour, and

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he asked mine opinion of the course that was taken with him: I told him, "My lord, 'Nubecula est "cito transibit;' it is but a mist. But shall I tell "your lordship, it is as mists are: if it go upwards, "it may perhaps cause a shower: if downwards, it "will clear up. And therefore, good my lord, carry "it so, as you take away by all means all umbrages "and distastes from the queen; and especially, if I "were worthy to advise you, as I have been by your-"self thought, and now your question imports the "continuance of that opinion, observe three points: "first, make not this cessation or peace, which is "concluded with Tyrone, as a service wherein you "glory, but as a shuffling up of a prosecution which "was not very fortunate. Next, represent not to "the queen any necessity of estate, whereby, as by "a coercion or wrench, she should think herself in-"forced to send you back into Ireland, but leave it "to her. Thirdly, seek access 'importune, opportune,' "seriously, sportingly, every way." I remember my lord was willing to hear me, but spake very few words, and shaked his head sometimes, as if he thought I was in the wrong; but sure I am, he did just contrary in every one of these three points. After this, during the while since my lord was committed to my lord keeper's, I came divers times to the queen, as I had used to do, about causes of her revenue and law business, as is well known; by reason of which accesses, according to the ordinary charities of court, it was given out, that I was one of them that incensed the queen against my lord of Es-

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sex. These speeches I cannot tell, nor I will not think, that they grew any way from her majesty's own speeches, whose memory I will ever honour; if they did, she is with God, and "Miserum est ab illis lædi, de quibus non possis queri." But I must give this testimony to my lord Cecil, that one time in his house at the Savoy he dealt with me directly, and said to me, "Cousin, I hear it, but I believe it "not, that you should do some ill office to my lord "of Essex; for my part I am merely passive, and "not active in this action; and I follow the queen, "and that heavily, and I lead her not; my lord of "Essex is one that in nature I could consent with "as well as with any one living; the queen indeed "is my sovereign, and I am her creature, I may not "lose her, and the same course I would wish you "to take." Whereupon I satisfied him how far I was from any such mind. And as sometimes it cometh to pass, that men's inclinations are opened more in a toy, than in a serious matter: a little before that time, being about the middle of Michaelmas term, her majesty had a purpose to dine at my lodge at Twicknam Park, at which time I had, though I profess not to be a poet, prepared a sonnet directly tending and alluding to draw on her majesty's reconcilement to my lord; which, I remember, also I shewed to a great person, and one of my lord's nearest friends, who commended it. This, though it be, as I said, but a toy, yet it shewed plainly in what spirit I proceeded; and that I was ready not only to do my lord good offices, but to publish and de-



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clare myself for him: and never was I so ambitious of any thing in my life-time, as I was to have carried some token or favour from her majesty to my lord; using all the art I had, both to procure her majesty to send, and myself to be the messenger. For as to the former I feared not to allege to her, that this proceeding toward my lord was a thing towards the people very unplausible; and therefore wished her majesty, however she did, yet to discharge herself of it, and lay it upon others; and therefore that she should intermix her proceeding with some immediate graces from herself, that the world might take knowledge of her princely nature and goodness, lest it should alienate the hearts of her people from her: which I did stand upon; knowing well that if she once relented to send or visit, those demonstrations would prove matter of substance for my lord's good. And to draw that employment upon myself, I advised her majesty, that whensoever God should move her to turn the light of her favours towards my lord, to make signification to him thereof; that her majesty, if she did it not in person, would at the least use some such mean as might not intitle themselves to any part of the thanks, as persons that were thought mighty with her to work her, or to bring her about; but to use some such as could not be thought but a mere conduit of her own goodness. But I could never prevail with her, though I am persuaded she saw plainly whereat I levelled; and she plainly had me in jealousy, that I was not hers intirely, but still had inward and deep respects towards my lord, more

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than stood at that time with her will and pleasure. About the same time I remember an answer of mine in a matter which had some affinity with my lord's cause, which though it grew from me, went after about in others' names. For her majesty being mightily incensed with that book which was dedicated to my lord of Essex, being a story of the first year of king Henry IV. thinking it a seditious prelude to put into the people's head boldness and faction, said, She had an opinion that there was treason in it, and asked me if I could not find any places in it that might be drawn within case of treason: whereto I answered; For treason surely I found none, but for felony very many. And when her majesty hastily asked me, Wherein? I told her, the author had committed very apparent theft; for he had taken most of the sentences of Cornelius Tacitus, and translated them into English, and put them into his text. And another time, when the queen would not be persuaded that it was his writing whose name was to it, but that it had some more mischievous author; and said with great indignation, That she would have him racked to produce his author: I replied; "Nay, madam, he is a "doctor, never rack his person, but rack his stile; "let him have pen, ink, and paper, and help of "books, and be enjoined to continue the story "where it breaketh off, and I will undertake by "collating the stiles to judge whether he were the "author or no." But for the main matter, sure I

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am, when the queen at any time asked mine opinion of my lord's case, I ever in one tenour said unto her; That they were faults which the law might term contempts; because they were the transgression of her particular directions and instructions: but then what defence might be made of them, in regard of the great interest the person had in her majesty's favour; in regard of the greatness of his place, and the ampleness of his commission; in regard of the nature of the business, being action of war, which in common cases cannot be tied to strictness of instructions; in regard of the distance of the place, having also a sea between, that his demands and her commands must be subject to wind and weather; in regard of a council of state in Ireland, which he had at his back to avow his actions upon; and lastly, in regard of a good intention, that he would allege for himself; which, I told her, in some religions was held to be a sufficient dispensation for God's commandments, much more for princes': in all these regards, I besought her majesty to be advised again and again, how she brought the cause into any public question. Nay, I went farther; for I told her, my lord was an eloquent and well-spoken man; and besides his eloquence of nature or art, he had an eloquence of accident which passed them both, which was the pity and benevolence of his hearers; and therefore, that when he should come to his answer for himself, I doubted his words would have so unequal a passage above theirs that should charge him, as would not

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be for her majesty's honour; and therefore wished the conclusion might be, that they might wrap it up privately between themselves; and that she would restore my lord to his former attendance, with some addition of honour to take away discontent. But this I will never deny; that I did shew no approbation generally of his being sent back again into Ireland, both because it would have carried a repugnancy with my former discourse, and because I was in mine own heart fully persuaded that it was not good, either for the queen, or for the state, or for himself: and yet I did not dissuade it neither, but left it ever as "locus lubricus." For this particularity I do well remember, that after your lordship was named for the place in Ireland, and not long before your going, it pleased her majesty at Whitehall to speak to me of that nomination: at which time I said to her; "Surely, "madam, if you mean not to employ my lord of "Essex thither again, your majesty cannot make a "better choice;" and was going on to shew some reason, and her majesty interrupted me with great passion: "Essex!" said she; "whensoever I send Essex back again into Ireland, I will marry you, claim it of me." Whereunto I said; "Well, Madam, "I will release that contract, if his going be for the "good of your state." Immediately after the queen had thought of a course, which was also executed, to have somewhat published in the Star-chamber, for the satisfaction of the world, touching my lord of Essex his restraint, and my lord not to be called to it; but occasion to be taken by reason of some

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libels then dispersed: which when her majesty propounded unto me, I was utterly against it; and told her plainly, That the people would say, that my lord was wounded upon his back, and that Justice had her balance taken from her, which ever consisted of an accusation and defence; with many other quick and significant terms to that purpose: insomuch that, I remember, I said, that my lord "in foro famæ," was too hard for her; and therefore wished her, as I had done before, to wrap it up privately. And certainly I offended her at that time, which was rare with me: for I call to mind, that both the Christmas, Lent, and Easter term following, though I came divers times to her upon law business, yet methought her face and manner was not so clear and open to me as it was at the first. And she did directly charge me, that I was absent that day at the Star-chamber, which was very true; but I alleged some indisposition of body to excuse it: and during all the time aforesaid, there was "altum silentium" from her to me touching my lord of Essex's causes.

But towards the end of Easter term her majesty brake with me, and told me, That she had found my words true: for that the proceeding in the Star-chamber had done no good, but rather kindled factious bruits, as she termed them, than quenched them; and therefore, that she was determined now, for the satisfaction of the world, to proceed against my lord in the Star-chamber by an information "Ore tenus," and to have my lord brought to his

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answer: howbeit, she said, she would assure me, that whatsoever she did should be towards my lord "ad castigationem, et non ad destructionem;" as indeed she had often repeated the same phrase before: whereunto I said, to the end utterly to divert her, "Madam, if you will have me speak to you "in this argument, I must speak to you as Friar "Bacon's head spake, that said first, 'Time is' and "then 'Time was;' and 'Time will never be:' for "certainly, said I, it is now far too late, the matter is "cold, and hath taken too much wind." Whereat she seemed again offended, and rose from me; and that resolution for a while continued: and after, in the beginning of Midsummer term, I attending her, and finding her settled in that resolution, which I heard of also otherwise, she falling upon the like speech; it is true, that seeing no other remedy, I said to her slightly, "Why, madam, if you will needs have a "proceeding, you were best have it in some such "sort as Ovid spake of his mistress; 'est aliquid "luce patente minus;' to make a council-table mat-"ter of it, and there an end:" which speech again she seemed to take in ill part; but yet I think it did good at that time, and helped to divert that course of proceeding by information in the Star-chamber. Nevertheless, afterwards it pleased her to make a more solemn matter of the proceeding; and some few days after, an order was given that the matter should be heard at York-house, before an assembly of counsellors, peers, and judges, and some audience of men of quality to be admitted: and then did some

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principal counsellors send for us of the learned counsel; and notify her majesty's pleasure unto us; save that it was said to me openly by one of them, that her majesty was not yet resolved whether she would have me forborn in the business or no. And hereupon might arise that other sinister and untrue speech, that, I hear, is raised of me, how I was a suitor to be used against my lord of Essex at that time: for it is very true, that I that knew well what had passed between the queen and me, and what occasion I had given her both of distaste and distrust, in crossing her disposition, by standing stedfastly for my lord of Essex, and suspecting it also to be a stratagem arising from some particular emulation, I writ to her two or three words of compliment, signifying to her majesty, "That if she would be pleased "to spare me in my lord of Essex's cause, out of the "consideration she took of my obligation towards "him, I should reckon it for one of her greatest fa- "vours: but otherwise desiring her majesty to think "that I knew the degrees of duties; and that no "particular obligation whatsoever to any subject "could supplant or weaken that entireness of duty "that I did owe and bear to her and her service." And this was the goodly suit I made, being a respect no man that had his wits could have omitted: but nevertheless I had a farther reach in it; for I judged that day's work would be a full period of any bitterness or harshness between the queen and my lord: and therefore, if I declared myself fully according to her mind at that time, which could not do my lord

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any manner of prejudice, I should keep my credit with her ever after, whereby to do my lord service. Hereupon the next news that I heard was, that we were all sent for again; and that her majesty's pleasure was, we all should have parts in the business; and the lords falling into distribution of our parts, it was allotted to me, that I should set forth some undutiful carriage of my lord, in giving occasion and countenance to a seditious pamphlet, as it was termed, which was dedicated unto him, which was the book before-mentioned of king Henry IV. Whereupon I replied to that allotment, and said to their lordships, That it was an old matter, and had no manner of coherence with the rest of the charge, being matters of Ireland: and therefore, that I having been wronged by bruits before, this would expose me to them more; and it would be said I gave in evidence mine own tales. It was answered again with good shew, That because it was considered how I stood tied to my lord of Essex, therefore that part was thought fittest for me, which did him least hurt; for that whereas all the rest was matter of charge and accusation, this only was but matter of caveat and admonition. Wherewith though I was in mine own mind little satisfied, because I knew well a man were better to be charged with some faults, than admonished of some others: yet the conclusion binding upon the queen's pleasure directly, "volens nolens" I could not avoid that part that was laid upon me: which part, if in the delivery I did handle not tenderly, though no man before

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me did in so clear terms free from my lord from all disloyalty as I did, that, your lordship knoweth, must be ascribed to the superior duty I did owe to the queen's fame and honour in a public proceeding, and partly to the intention I had to uphold myself in credit and strength with the queen, the better to be able to do my lord good offices afterwards: for as soon as this day was past, I lost no time; but the very next day following, as I remember, I attended her majesty, fully resolved to try and put in ure my utmost endeavour, so far as I in my weakness could give furtherance, to bring my lord again speedily into court and favour; and knowing, as I supposed at least, how the queen was to be used, I thought that to make her conceive that the matter went well then, was the way to make her leave off there: and I remember well, I said to her, "You have now, madam, obtained victory over "two things, which the greatest princes in the "world cannot at their wills subdue; the one is "over fame; the other is over a great mind: for "surely the world is now, I hope, reasonably well sa-"tisfied; and for my lord, he did shew that humili-"ation towards your majesty, as I am persuaded he "was never in his life-time more fit for your ma-"jesty's favour than he is now: therefore if your "majesty will not mar it by lingering, but give "over at the best, and now you have made so good "a full point, receive him again with tenderness, I "shall then think, that all that is past is for the "best." Whereat, I remember, she took exceeding

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great contentment, and did often iterate and put me in mind, that she had ever said, That her proceedings should be "ad reparationem," and not "ad ruinam;" as who saith, that now was the time I should well perceive, that that saying of hers should prove true. And farther she willed me to set down in writing all that passed that day. I obeyed her commandment, and within some few days after brought her again the narration, which I did read unto her in two several afternoons: and when I came to that part that set forth my lord's own answer, which was my principal care, I do well bear in mind, that she was extraordinarily moved with it, in kindness and relenting towards my lord; and told me afterwards, speaking how well I had expressed my lord's part, That she perceived old love would not easily be forgotten: whereunto I answered suddenly, that I hoped she meant that by herself. But in conclusion I did advise her, That now she had taken a representation of the matter to herself, that she would let it go no farther: "For, madam," said I, "the fire blazeth "well already, what should you tumble it? And be- "sides, it may please you to keep a convenience "with yourself in this case; for since your express "direction was, there should be no register nor clerk "to take this sentence, nor no record or memorial "made up of the proceeding, why should you now "do that popularly, which you would not admit to "be done judicially?" Whereupon she did agree that that writing should be suppressed; and I think there were not five persons that ever saw it. But

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from this time forth, during the whole latter end of that summer, while the court was at Nonesuch and Oatlands, I made it my task and scope to take and give occasions for my lord's redintegration in his fortunes: which my intention I did also signify to my lord as soon as ever he was at his liberty; whereby I might without peril of the queen's indignation write to him: and having received from his lordship a courteous and loving acceptation of my good will and endeavours, I did apply it in all my accesses to the queen, which were very many at that time; and purposely sought and wrought upon other variable pretences, but only and chiefly for that purpose. And on the other side, I did not forbear to give my lord from time to time faithful advertisement what I found, and what I wished. And I drew for him, by his appointment, some letters to her majesty; which though I knew well his lordship's gift and stile was far better than mine own, yet, because he required it, alleging, that by his long restraint he was grown almost a stranger to the queen's present conceits, I was ready to perform it: and sure I am, that for the space of six weeks or two months, it prospered so well, as I expected continually his restoring to his attendance. And I was never better welcome to the queen, nor more made of, than when I spake fullest and boldest for him: in which kind the particulars were exceeding many; whereof, for an example, I will remember to your lordship one or two. As at one time, I call to mind, her majesty was speaking of a fellow that undertook to cure, or at least to ease

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my brother of his gout, and asked me how it went forward: and I told her majesty, That at the first he received good by it; but after in the course of his cure he found himself at a stay, or rather worse: the queen said again, "I will tell you, Bacon, the "error of it: the manner of these physicians, and "especially these empirics, is to continue one kind of "medicine; which at the first is proper, being to draw "out the ill humour; but, after, they have not the "discretion to change the medicine, but apply still "drawing medicines, when they should rather intend "to cure and corroborate the part." "Good Lord! ma-"dam," said I, "how wisely and aptly can you speak "and discern of physic ministered to the body, and "consider not that there is the like occasion of physic "ministered to the mind: as now in the case of my "lord of Essex, your princely word ever was, that you "intended ever to reform his mind, and not ruin his "fortune: I know well you cannot but think that "you have drawn the humour sufficiently; and there-"fore it were more than time, and it were but for "doubt of mortifying or exulcerating, that you did "apply and minister strength and comfort unto him: "for these same gradations of yours are fitter to cor-"rupt than correct any mind of greatness." And another time I remember she told me for news, That my lord had written unto her some very dutiful letters, and that she had been moved by them; and when she took it to be the abundance of his heart, she found it to be but a preparative to a suit for the renewing of his farm of sweet wines. Where-

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unto I replied, "O madam, how doth your majesty "construe these things, as if these two could not "stand well together, which indeed nature hath "planted in all creatures! For there are but two "sympathies, the one towards perfection, the other "towards preservation; that to perfection, as the "iron tendeth to the loadstone; that to preserva-"tion, as the vine will creep towards a stake or prop "that stands by it; not for any love to the stake, "but to uphold itself. And therefore, madam, you "must distinguish: my lord's desire to do you ser-"vice is, as to his perfection, that which he thinks "himself to be born for; whereas his desire to ob-"tain this thing of you, is but for a sustenta-"tion."

And not to trouble your lordship with many other particulars like unto these, it was at the self-same time that I did draw, with my lord's privity, and by his appointment, two letters, the one written as from my brother, the other as an answer returned from my lord, both to be by me in secret manner shewed to the queen, which it pleased my lord very strangely to mention at the bar; the scope of which were but to represent and picture forth unto her majesty my lord's mind to be such, as I knew her majesty would fainest have had it: which letters whosoever shall see, for they cannot now be retracted or altered, being by reason of my brother's or his lordship's servants delivery long since come into divers hands, let him judge, especially if he knew the queen, and do remember those times, whe-

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ther they were not the labours of one that sought to bring the queen about for my lord of Essex his good. The truth is, that the issue of all his dealing grew to this, that the queen, by some slackness of my lord's, as I imagine, liked him worse and worse, and grew more incensed towards him. Then she remembering belike the continual, and incessant, and confident speeches and courses that I had held on my lord's side, became utterly alienated from me, and for the space of, at last, three months, which was between Michaelmas and New-year's-tide following, would not so much as look on me, but turned away from me with express and purpose-like discountenance wheresoever she saw me; and at such time as I desired to speak with her about law-business, ever sent me forth very slight refusals, insomuch as it is most true, that immediately after New-year's-tide I desired to speak with her, and being admitted to her, I dealt with her plainly; and said, "Madam, I see you withdraw your favour "from me, and now I have lost many friends for "your sake, I shall lose you too: you have put me "like one of those that the Frenchmen call "enfans perdus," that serve on foot before horsemen; "so have you put me into matters of envy without "place, or without strength; and I know at chess a "pawn before the king is ever much played upon; "a great many love me not, because they think I "have been against my lord of Essex; and you love "me not, because you know I have been for him; "yet will I never repent me, that I have dealt in "simplicity of heart towards you both, without

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"respect of cautions to myself; and therefore "'vivus videnque pereo;' if I do break my neck, "I shall do it in a manner as Mr. Dorrington "did it, which walked on the battlements of "the church many days, and took a view and "survey where he should fall. And so, madam, "said I, I am not so simple but that I take a "prospect of mine overthrow; only I thought "I would tell you so much, that you may know "that it was faith, and not folly that brought "me into it, and so I will pray for you." Upon which speeches of mine uttered with some passion, it is true her majesty was exceedingly moved; and accumulated a number of kind and gracious words upon me, and willed me to rest upon this, "Gratia mea sufficit," and a number of other sensible and tender words and demonstrations, such as more could not be; but as touching my lord of Essex, "ne verbum quidem." Whereupon I departed, resting then determined to meddle no more in the matter; as that, that I saw would overthrow me, and not be able to do him any good. And thus I made mine own peace with mine own confidence* at that time; and this was the last time I saw her majesty before the eighth of February, which was the day of my lord of Essex his misfortune; after which time, for that I performed at the bar in my public service, your lordship knoweth, by the rules of duty that I was to do it honestly, and without prevarication; but for my putting myself into it, I protest

* Query *conscience*, but note that in the first edition it is confidence.

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before God, I never moved either the queen, or any person living, concerning my being used in the service, either of evidence or examination; but it was merely laid upon me with the rest of my fellows. And for the time which passed, I mean between the arraignment and my lord's suffering, I well remember I was but once with the queen, at what time, though I durst not deal directly for my lord as things then stood, yet generally I did both commend her majesty's mercy, terming it to her as an excellent balm that did continually distil from her sovereign hands, and made an excellent odour in the senses of her people; and not only so, but I took hardiness to extenuate, not the fact, for that I durst not, but the danger, telling her, that if some base or cruel-minded persons had entered into such an action, it might have caused much blood and combustion: but it appeared well, they were such as knew not how to play the malefactors; and some other words which I now omit. And as for the rest of the carriage of myself in that service, I have many honourable witnesses that can tell, that the next day after my lord's arraignment, by my diligence and information touching the quality and nature of the offenders, six of nine were stayed, which otherwise had been attainted, I bringing their lordships' letter for their stay, after the jury was sworn to pass upon them; so near it went: and how careful I was, and made it my part, that whosoever was in trouble about that matter, as soon as ever his case was sufficiently known and defined of, might not continue in



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restraint, but be set at liberty; and many other parts, which, I am well assured of, stood with the duty of an honest man. But indeed I will not deny for the case of Sir Thomas Smith of London, the queen demanding my opinion of it, I told her, I thought it was as hard as any of the rest. But what was the reason? Because at that time I had seen only his accusation, and had never been present at any examination of his; and the matter so standing, I had been very untrue to my service, if I had not delivered that opinion. But afterwards upon a re-examination of some that charged him, who weakened their own testimony, and especially hearing himself "viva voce," I went instantly to the queen, out of the soundness of my conscience, not regarding what opinion I had formerly delivered, and told her majesty, I was satisfied and resolved in my conscience, that for the reputation of the action, the plot was to countenance the action farther by him in respect of his place, than they had indeed any interest or intelligence with him. It is very true also, about that time her majesty taking a liking of my pen, upon that which I formerly had done concerning the proceeding at York-house, and likewise upon some other declarations, which in former times by her appointment I put in writing, commanded me to pen that book, which was published for the better satisfaction of the world; which I did, but so, as never secretary had more particular and express directions and instructions in every point how to guide my hand in it; and not only so, but after

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that I had made a first draught thereof, and propounded it to certain principal counsellors by her majesty's appointment, it was perused, weighed, censured, altered, and made almost a new writing, according to their lordships' better consideration; wherein their lordships and myself both were as religious and curious of truth, as desirous of satisfaction: and myself indeed gave only words and form of style in pursuing their direction. And after it had passed their allowance, it was again exactly perused by the queen herself, and some alterations made again by her appointment: nay, and after it was set to print, the queen, who, as your lordship knoweth, as she was excellent in great matters, so she was exquisite in small, and noted that I could not forget my ancient respect to my lord of Essex, in terming him ever my lord of Essex, my lord of Essex, almost in every page of the book, which she thought not fit, but would have it made Essex, or the late earl of Essex: whereupon of force it was printed "de novo," and the first copies suppressd by her peremptory commandment.

And this, my good lord, to my farthest remembrance is all that passed wherein I had part; which I have set down as near as I could in the very words and speeches that were used, not because they are worthy the repetition, I mean those of mine own; but to the end your lordship may lively and plainly discern between the face of truth, and a smooth tale: and the rather also, because in things that passed a good while since, the very words and phrases did

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sometimes bring to my remembrance the matters: wherein I report me to your honourable judgment, whether you do not see the traces of an honest man: and had I been as well believed either by the queen or by my lord, as I was well heard by them both, both my lord had been fortunate, and so had myself in his fortune.

To conclude therefore, I humbly pray your lordship to pardon me for troubling you with this long narration; and that you will vouchsafe to hold me in your good opinion, till you know I have deserved, or find that I shall deserve the contrary; and so ever I continue

At your Lordship's honourable commandments very humbly,

F. B.

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# THE

# *PROCEEDINGS OF THE EARL OF ESSEX.

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### THE POINTS OF FORM WORTHY TO BE OBSERVED.

THE fifth of June in Trinity term, upon Thursday, being no Star-chamber day, at the ordinary hour when the courts sit at Westminster, were assembled together at the lord keeper's house in the great chamber, her majesty's privy-council, enlarged and assisted for that time and cause by the special call and associating of certain selected persons, viz. four earls, two barons, and four judges of the law, making in the whole a council or court of eighteen persons, who were attended by four of her majesty's learned counsel for charging the earl; and two clerks of the council, the one to read, the other as a register; and an auditory of persons, to the number, as I could guess, of two hundred, almost all men of quality, but of every kind or profession; nobility, court, law, country, city. The upper end of the table left void for the earl's appearance, who, after the commissioners had sat a while, and the auditory was quiet from the first throng to get in, and the doors shut, presented himself and kneeled down at

* At York-House, in June, 1600, prepared for queen Elizabeth by her command, and read to her by Mr. Bacon, but never published.

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the board's end, and so continued till he was licensed to stand up.

THE NAMES OF THE COMMISSIONERS.

Lord Archbishop,
Lord Keeper, &c.

It was opened, that her majesty being imperial, and immediate under God, was not holden to render account of her actions to any; howbeit, because she had chosen ever to govern, as well with satisfaction as with sovereignty, and the rather, to command down the winds of malicious and seditious rumours wherewith men's conceits may have been tossed to and fro, she was pleased to call the world to an understanding of her princely course held towards the earl of Essex, as well in here-before protracting as in now proceeding.

The earl repairing from his government into this realm in August last, contrary to her majesty' express and most judicial commandment, though the contempt were in that point visible, and her majesty's mind prepared to a just and high displeasure, in regard of that realm of Ireland set at hazard by his former disobedience to her royal directions, yet kept that stay, as she commanded my lord only to his chamber in court, until his allegations might by her privy council be questioned and heard; which account taken, and my lord's answers appearing to be of no defence, that shadow of defence which was offered consisted of two parts, the one his own conceit of some likelihood of good effects to ensue of

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the course held, the other a vehement and overruling persuasion of the council there, though he were indeed as absolutely freed from opinion of the council of Ireland, as he was absolutely tied to her majesty's trust and instructions. Nevertheless, her majesty not unwilling to admit any extenuation of his offence; and considering the one point required advertisement out of Ireland, and the other further expectation of the event and sequel of the affairs there, and so both points asked time and protraction; her majesty proceeded still with reservation, not to any restraint of my lord according to the nature and degree of his offence, but to a commitment of him, "sub libera custodia," in the lord-keeper's house.

After, when both parts of this defence plainly failed my lord, yea, and proved utterly adverse to him, for the council of Ireland in plain terms disavowed all those his proceedings, and the event made a miserable interpretation of them, then her majesty began to behold the offence in nature and likeness, as it was divested from any palliation or cover, and in the true proportion and magnitude thereof, importing the peril of a kingdom: which consideration wrought in her majesty a strange effect, if any thing which is heroical in virtue can be strange in her nature; for when offence was grown unmeasurably offensive, then did grace superabound; and in the heat of all the ill news out of Ireland, and other advertisements thence to my lord's disadvantage, her majesty entered into a resolution, out of herself and

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her inscrutable goodness, not to overthrow my lord's fortune irreparably, by public and proportionable justice: notwithstanding, inasmuch as about that time there did fly about in London streets and theatres divers seditious libels; and Paul's and ordinaries were full of bold and factious discourses, whereby not only many of her majesty's faithful and zealous counsellors and servants were taxed, but withal the hard estate of Ireland was imputed to any thing rather than unto the true cause, the earl's defaults, though this might have made any prince on earth to lay aside straightways the former resolution taken, yet her majesty in her moderation persisted in her course of clemency, and bethought herself of a mean to right her own honour, and yet spare the earl's ruin; and therefore taking a just and most necessary occasion upon these libels, of an admonition to be given seasonably, and as is oft accustomed; the last Star-chamber day of Michaelmas term, was pleased, that declaration should be made, by way of testimony, of all her honourable privy council, of her majesty's infinite care, royal provisions, and prudent directions for the prosecutions in Ireland, wherein the earl's errors, by which means so great care and charge was frustrated, were incidently touched.

But as in bodies very corrupt, the medicine rather stirreth and exasperateth the humour than purgeth it, so some turbulent spirits laid hold of this proceeding in so singular partiality towards my lord, as if it had been to his disadvantage, and gave out

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that this was to condemn a man unheard, and to wound him on his back, and to leave Justice her sword and take away her balance, which consisted of an accusation and a defence; and such other seditious phrases: whereupon her majesty seeing herself interested in honour, which she hath ever sought to preserve as her eye, clear and without mote, was inforced to resolve of a judicial hearing of the cause, which was accordingly appointed in the end of Hilary term. At the which time warning being given to my lord to prepare himself, he falling, as it seemed, in a deep consideration of his estate, made unto her majesty by letter an humble and effectual submission, beseeching her that that bitter cup of justice might pass from him, for those were his words; which wrought such an impression in her majesty's mind, that it not only revived in her her former resolution to forbear any public hearing, but it fetched this virtue out of mercy by the only touch, as few days after my lord was removed to further liberty in his own house, her majesty hoping that these bruits and malicious imputations would of themselves wax old and vanish: but finding it otherwise in proof, upon taste taken by some intermission of time, and especially beholding the humour of the time in a letter presumed to be written to her majesty herself by a lady, to whom, though nearest in blood to my lord, it appertained little to intermeddle in matters of this nature, otherwise than in course of humility to have solicited her grace and mercy; in which letter, in a certain violent and mineral spi-

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rit of bitterness, remonstrance, and representation is made to her majesty, as if my lord suffered under passion and faction, and not under justice mixed with mercy; which letter, though written to her sacred majesty, and therefore unfit to pass in vulgar hands, yet was first divulged by copies every where, that being, as it seemeth, the newest and finest form of libelling, and since committed to the press: her majesty in her wisdom seeing manifestly these rumours thus nourished had got too great a head to be repressed without some hearing of the cause, and calling my lord to answer; and yet on the other side, being still informed touching my lord himself of his continuance of penitence and submission, did in conclusion resolve to use justice, but with the edge and point taken off and rebated; for whereas nothing leaveth that taint upon honour, which in a person of my lord's condition is hardliest repaired, in question of justice, as to be called to the ordinary and open place of offenders and criminals, her majesty had ordered that the hearing should be "intra domesticos parietes," and not "luce forensi." And whereas again in the Star-chamber there be certain formalities not fit in regard of example to be dispensed with, which would strike deeper both into my lord's fortune and reputation; as the fine which is incident to a sentence there given, and the imprisonment of the Tower, which in case of contempts that touch the point of estate doth likewise follow; her majesty turning this course, had directed that the matters should receive, before a great, honourable,

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and selected council, a full and deliberate, and yet in respect, a private, mild, and gracious hearing.

All this was not spoken in one undivided speech, but partly by the first that spake of the learned counsel, and partly by some of the commissioners; for in this and the rest I keep order of matter, and not of circumstance.

### THE MATTERS LAID TO MY LORD'S CHARGE.

The matters wherewith my lord was charged were of two several natures; of an higher, and of an inferior degree of offence.

The former kind purported great and high contempts and points of misgovernance in his office of her majesty's lieutenant and governor of her realm of Ireland; and in the trust and authority thereby to him committed.

The latter contained divers notorious errors and neglects of duty, as well in his government as otherwise.

The great contempts and points of misgovernment and malversation in his office, were articulate into three heads.

I. The first was the journey into Munster, whereby the prosecution in due time upon Tyrone in Ulster was overthrown: wherein he proceeded contrary to his directions, and the whole design of his employment: whereof ensued the consumption of her majesty's army, treasure, and provisions, and the evident peril of that kingdom.

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II. The second was the dishonourable and dangerous treaty held, and cessation concluded with the same arch-rebel Tyrone.

III. The third was his contemptuous leaving his government, contrary to her majesty's absolute mandate under her hand and signet, and in a time of so imminent and instant danger.

For the first, it had two parts; that her majesty's resolution and direction was precise and absolute for the northern prosecution, and that the same direction was by my lord, in regard of the journey to Munster, wilfully and contemptuously broken.

It was therefore delivered, that her majesty, touched with a true and princely sense of the torn and broken estate of that kingdom of Ireland, entered into a most Christian and magnanimous resolution to leave no faculty of her regal power or policy unemployed for the reduction of that people, and for the suppressing and utter quenching of that flame of rebellion, wherewith that country was and is wasted: whereupon her majesty was pleased to take knowledge of the general conceit, how the former making and managing of the actions there had been taxed, upon two exceptions; the one, that the proportions of forces which had been there maintained and continued by supplies, were not sufficient to bring the prosecutions to a period: the other, that the prosecutions had been also intermixed and interrupted with too many temporizing treaties, whereby the rebel did not only gather strength, but

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also find his strength more and more, so as ever such smothers broke forth again into greater flames. Which kind of discourses and objections, as they were entertained in a popular kind of observation, so were they ever chiefly patronized and apprehended by the earl, both upon former times and occasions, and now last when this matter was in deliberation. So as her majesty, to acquit her honour and regal function, and to give this satisfaction to herself and others, that she had left no way untried, resolved to undertake the action with a royal army and puissant forces, under the leading of some principal nobleman; in such sort, that, as far as human discourse might discern, it might be hoped, that by the expedition of a summer, things might be brought to that state, as both realms may feel some ease and respiration; this from charge and levies, and that from troubles and perils. Upon this ground her majesty made choice of my lord of Essex for that service, a principal peer and officer of her realm, a person honoured with the trust of a privy counsellor, graced with the note of her majesty's special favour, infallibly betokening and redoubling his worth and value, enabled with the experience and reputation of former services, and honourable charges in the wars; a man every way eminent, select, and qualified for a general of a great enterprise, intended for the recovery and reduction of that kingdom, and not only or merely as a lieutenant or governor of Ireland.

My lord, after that he had taken the charge upon

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him, fell straightways to make propositions answerable to her majesty's ends, and answerable to his own former discourses and opinions; and chiefly did set down one full and distinct resolution, that the design and action, which of all others was most final and summary towards an end of those troubles, and which was worthy her majesty's enterprise with great and puissant forces, was a prosecution to be made upon the arch-traitor Tyrone in his own strengths within the province of Ulster, whereby both the inferior rebels which rely upon him, and the foreigner upon whom he relieth, might be discouraged, and so to cut asunder both dependences: and for the proceeding with greater strength and policy in that action, that the main invasion and impression of her majesty's army should be accompanied and corresponded unto by the plantation of strong garrisons in the north, as well upon the river of Loghfoile as a postern of that province, as upon the hither frontiers, both for the distracting and bridling of the rebels forces during the action, and again, for the keeping possession of the victory, if God should send it.

This proposition and project moving from my lord, was debated in many consultations. The principal men of judgment and service in the wars, as a council of war to assist a council of state, were called at times unto it; and this opinion of my lord was by himself fortified and maintained against all contradiction and opposite argument; and in the end, "ex unanimi consensu," it was concluded and re-

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solved that the axe should be put to the root of the tree: which resolution was ratified and confirmed by the binding and royal judgment of her sacred majesty, who vouchsafed her kingly presence at most of those consultations.

According to a proposition and enterprise of this nature, were the proportions of forces and provisions thereunto allotted. The first proportion set down by my lord was the number of 12,000 foot and 1,200 horse; which being agreed unto, upon some other accident out of Ireland, the earl propounded to have it made 14,000 foot, and 1300 horse, which was likewise accorded; within a little while after the earl did newly insist to have an augmentation of 2,000 more, using great persuasions and confident significations of good effect, if those numbers might be yielded to him, as which he also obtained before his departure; and besides the supplies of 2,000 arriving in July, he had authority to raise 2,000 Irish more, which he procured by his letters out of Ireland, with pretence to further the northern service: so as the army was raised in the conclusion and list to 16,000 foot, and 1,300 horse, supplied with 2,000 more at three months' end, and increased with 2,000 Irish upon this new demand; whereby her majesty at that time paid 18,000 foot and 1,300 horse in the realm of Ireland. Of these forces, divers companies drawn out of the experienced bands of the Low Countries; special care taken that the new levies in the country should be of the ablest, and most disposed bodies; the army also animated and

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encouraged with the service of divers brave and valiant noblemen and gentlemen voluntaries; in sum, the most flourishing and complete troops that have been known to have been sent out of our nation in any late memory. A great mass of treasure provided and issued, amounting to such a total, as the charge of that army, all manner of ways, from the time of the first provisions and setting forth, to the time of my lord's returning into England, was verified to have drawn out of the coffers, besides the charge of the country, the quantity of 300,000*l*, and so ordered as he carried with him three months' pay beforehand, and likewise victual, munition, and all habiliments of war whatsoever, with attendance of shipping allowed and furnished in a sortable proportion, and to the full of all my lord's own demands. For my lord being himself a principal counsellor for the preparations, as he was to be an absolute commander in the execution, his spirit was in every conference and conclusion in such sort, as when there happened any points of difference upon demands, my lord using the forcible advantages of the toleration and liberty which her majesty's special favour did give unto him, and the great devotion and forwardness of his fellow-counsellors to the general cause, and the necessity of his then present service, he did ever prevail and carry it; insomuch as it was objected and laid to my lord's charge as one of his errors and presumptions, that he did oftentimes, upon their propositions and demands, enter into contestations with her majesty, more a great deal than

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was fit. All which propositions before mentioned being to the utmost of my lord's own askings, and of that height and greatness, might really and demonstratively express and intimate unto him, besides his particular knowledge which he had, as a counsellor of estate, of the means both of her majesty and this kingdom, that he was not to expect to have the commandment of 16,000 foot and 1,300 horse, as an appurtenance to his lieutenancy of Ireland, which was impossible to be maintained; but contrariwise, that in truth of intention he was designed as general for one great action and expedition, unto which the rest of his authority was but accessary and accommodate.

It was delivered further, that in the authority of his commission, which was more ample in many points than any former lieutenant had been vested with, there were many direct and evident marks of his designation to the northern action, as principally a clause whereby "merum arbitrium belli et pacis" was reposed in his sole trust and discretion, whereas all the lieutenants were ever tied unto the peremptory assistance and admonition of a certain number of voices of the council of Ireland. The occasion of which clause so passed to my lord, doth notably disclose and point unto the precise trust committed to my lord for the northern journey; for when his commission was drawn at first according to former precedents, and on the other side my lord insisted strongly to have this new and "prima facie" vast and exorbitant authority, he used this argument;



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that the council of Ireland had many of them livings and possessions in or near the province of Lemster and Munster; but that Ulster was abandoned from any such particular respects, whereby it was like, the council there would be glad to use her majesty's forces for the clearing and assuring of those territories and countries where their fortunes and estates were planted: so as, if he should be tied to their voices, he were like to be diverted from the main service intended: upon which reason that clause was yielded unto.

So as it was then concluded, that all circumstances tended to one point, that there was a full and precise intention and direction for Ulster, and that my lord could not descend into the consideration of his own quality and value; he could not muster his fair army; he could not account with the treasurer, and take consideration of the great mass of treasure issued; he could not look into the ample and new clause of his letters patent; he could not look back, either to his own former discourses, or to the late propositions whereof himself was author, nor to the conferences, consultations, and conclusions thereupon, nor principally to her majesty's royal direction and expectation, nor generally to the conceit both of subjects of this realm, and the rebels themselves in Ireland; but which way soever he turned, he must find himself trusted, directed, and engaged wholly for the northern expedition.

The parts of this that was charged were verified by

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three proofs: the first, the most authentical but the least pressed, and that was her majesty's own royal affirmation, both by her speech now and her precedent letters; the second, the testimony of the privy council, who upon their honours did avouch the substance of that was charged, and referred themselves also to many of their lordships' letters to the same effect; the third, letters written from my lord after his being in Ireland, whereby the resolution touching the design of the north is often knowledged.

There follow some clauses both of her majesty's letters and of the lords of her council, and of the earl's and the council of Ireland, for the verification of this point.

Her majesty, in her letter of the 19th of July to my lord of Essex, upon the lingering of the northern journey, doubting my lord did value service, rather by the labour he endured, than by the advantage of her majesty's royal ends, hath these words:

"You have in this dispatch given us small light, "either when or in what order you intend particu- "larly to proceed to the northern action; wherein "if you compare the time that is run on, and the "excessive charges that are spent, with the effects "of any thing wrought by this voyage, howsoever "we remain satisfied with your own particular cares "and travails of body and mind, yet you must needs "think that we, that have the eyes of foreign princes "upon our actions, and have the hearts of people to "comfort and cherish, who groan under the burthen

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" of continual levies and impositions, which are oc-
" casioned by these late actions, can little please
" ourself hitherto with any thing that hath been
" effected."

In another branch of the same letter, reflecting her royal regard upon her own honour interested in this delay, hath these words:

" Whereunto we will add this one thing that
" doth more displease us than any charge or offence
" that happens, which is, that it must be the queen
" of England's fortune, who hath held down the
" greatest enemy she had, to make a base bush-kern
" to be accounted so famous a rebel, as to be a per-
" son against whom so many thousands of foot and
" horse, besides the force of all the nobility of that
" kingdom, must be thought too little to be em-
" ployed."

In another branch, discovering, as upon the vantage ground of her princely wisdom, what would be the issue of the courses then held, hath these words:

" And therefore, although by your letter we
" found your purpose to go northwards, on which
" depends the main good of our service, and which
" we expected long since should have been per-
" formed; yet because we do hear it bruited, be-
" sides the words of your letter written with your own
" hand, which carries some such sense, that you who
" allege such sickness in your army by being tra-
" velled with you, and find so great and important
" affairs to digest at Dublin, will yet engage your-
" self personally into Ophalie, being our lieutenant,

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" when you have there so many inferiors able, might
" victual a fort, or seek revenge against those who
" have lately prospered against our forces. And
" when we call to mind how far the sun hath run his
" course, and what dependeth upon the timely plan-
" tation of garrisons in the North, and how great
" scandal it would be to our honour to leave that
" proud rebel unassayed, when we have with so
" great an expectation of our enemies engaged our-
" selves so far in the action; so that, without that
" be done, all those former courses will prove like
" 'via navis in mari;' besides that our power, which
" hitherto hath been dreaded by potent enemies,
" will now even be held contemptible amongst our
" rebels: we must plainly charge you, according to
" the duty you owe to us, so to unite soundness of
" judgment to the zeal you have to do us service,
" as with all speed to pass thither in such sort, as
" the axe might be put to the root of that tree,
" which hath been the treasonable stock from whom
" so many poisoned plants and grafts have been de-
" rived; by which proceedings of yours, we may
" neither have cause to repent of our employment
" of yourself for omitting those opportunities to
" shorten the wars, nor receive in the eye of the
" world imputation of so much weakness in ourself,
" to begin a work without better foresight what
" would be the end of our excessive charge, the ad-
" venture of our people's lives, and the holding up
" of our own greatness against a wretch, whom we
" have raised from the dust, and who could never

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" prosper, if the charges we have been put to were " orderly employed."

Her majesty in her particular letter written to my lord the 30th of July, bindeth, still expressly upon the northern prosecution, my lord " ad principalia rerum," in these words:

" First, you know right well, when we yielded " to this excessive charge, it was upon no other foun- " dation than to which yourself did ever advise us " as much as any, which was, to assail the northern " traitor, and to plant garrisons in his country; it " being ever your firm opinion, amongst other our " council, to conclude that all that was done in " other kind in Ireland, was but waste and con- " sumption."

Her majesty in her letter of the 9th of August to my lord of Essex and the council of Ireland, when, after Munster journey, they began in a new time to dissuade the northern journey in her excellent ear, quickly finding a discord of men from themselves, chargeth them in these words:

" Observe well what we have already written, " and apply your counsels to that which may shorten, " and not prolong the war; seeing never any of you " was of other opinion, than that all other courses " were but consumptions, except we went on with " the northern prosecution."

The lords of her majesty's council, in their letter of the 10th of August to my lord of Essex and the council of Ireland, do in plain terms lay before them the first plot, in these words:

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" We cannot deny but we did ground our coun-
" sels upon this foundation, That there should have
" been a prosecution of the capital rebels in the
" North, whereby the war might have been short-
" ened; which resolution, as it was advised by
" yourself before your going, and assented to by
" most part of the council of war that were
" called to the question, so must we confess to your
" lordship, that we have all this while concurred
" with her majesty in the same desire and expec-
" tation."

My lord of Essex, and the council of Ireland, in their letter of the 5th of May to the lords of the council before the Munster journey, write " in hæc verba."

" Moreover, in your lordships' great wisdom, you
" will likewise judge what pride the rebels will grow
" to, what advantage the foreign enemy may take,
" and what loss her majesty shall receive, if this
" summer the arch-traitor be not assailed, and gar-
" risons planted upon him."

My lord of Essex, in his particular letter of the 11th of July, to the lords of the council, after Munster journey, writeth thus:

" As fast as I can call these troops together, I
" will go look upon yonder proud rebel, and if I find
" him on hard ground, and in an open country,
" though I should find him in horse and foot three
" for one, yet will I by God's grace dislodge him, or
" put the council to the trouble of," &c.

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The earl of Essex, in his letter of the 14th of August to the lords of the council, writeth out of great affection, as it seemeth, in these words:

"Yet must these rebels be assailed in the height "of their pride, and our base clowns must be taught "to fight again; else will her majesty's honour "never be recovered, nor our nation valued, nor this "kingdom reduced."

Besides it was noted, that whereas my lord and the council of Ireland, had, by theirs of the 15th of July, desired an increase of 2,000 Irish purposely for the better setting on foot of the northern service; her majesty, notwithstanding her proportions, by often gradations and risings, had been raised to the highest elevation, yet was pleased to yield unto it.

1. The first part concerneth my lord's ingress into his charge, and that which passed here before his going hence; now followeth an order, both of time and matter, what was done after my lord was gone into Ireland, and had taken upon him the government by her majesty's commission.

2. The second part then of the first article was to shew, that my lord did wilfully and contemptuously, in this great point of estate, violate and infringe her majesty's direction before remembered.

In delivering of the evidence and proofs of this part, it was laid down for a foundation, that there was a full performance on her majesty's part of all the points agreed upon for this great prosecution, so

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as there was no impediment or cause of interruption from hence.

This is proved by a letter from my lord of Essex and the council of Ireland to the lords of the council here, dated 9th May, which was some three weeks after my lord had received the sword, by which time he might well and thoroughly inform himself whether promise were kept in all things or no, and the words of the letter are these:

"As your lordships do very truly set forth, we "do very humbly acknowledge her majesty's charge- "able magnificence and royal preparations and "transportations of men, munition, apparel, money, "and victuals, for the recovery of this distressed "kingdom;" where note, the transportations acknowledged as well as the preparations.

Next, it was set down for a second ground, that there was no natural nor accidental impediment in the estate of the affairs themselves, against the prosecution upon Tyrone, but only culpable impediments raised by the journey of Munster.

This appeared by a letter from my lord and the council of Ireland to the lords of the council here, dated the 28th of April, whereby they advertise, that the prosecution of Ulster, in regard of lack of grass and forage, and the poorness of cattle at that time of year, and such like difficulties of the season, and not of the matter, will in better time, and with better commodity for the army, be fully executed about the middle of June or be-

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ginning of July; and signify, that the earl intended a present prosecution should be set on foot in Lemster: to which letters the lords make answer by theirs of the 8th of May, signifying her majesty's toleration of the delay.

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# A DECLARATION OF THE PRACTICES AND TREASONS, ATTEMPTED AND COMMITTED BY ROBERT LATE EARL OF ESSEX AND HIS COMPLICES, AGAINST HER MAJESTY AND HER KINGDOMS;

AND OF THE PROCEEDINGS AS WELL AT THE ARRAIGNMENTS AND CONVICTIONS OF THE SAID LATE EARL, AND HIS ADHERENTS, AS AFTER: TOGETHER WITH THE VERY CONFESSIONS, AND OTHER PARTS OF THE EVIDENCES THEMSELVES, WORD FOR WORD, TAKEN OUT OF THE ORIGINALS. IMPRINTED ANNO 1601.*

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THOUGH public justice passed upon capital offenders, according to the laws, and in course of an honourable and ordinary trial, where the case would have born and required the severity of martial law to have been speedily used, do in itself carry a sufficient satisfaction towards all men, specially in a merciful government, such as her majesty's is approved to be: yet because there do pass abroad in the hands of many men divers false and corrupt collections and relations of the proceedings at the arraignment of the late earls of Essex and Southampton; and, again, because it is requisite that the world do understand as well the precedent practices and inducements to the treasons, as the open and actual treasons themselves, though in a case of life it was not thought convenient to insist at the trial upon matter of inference or presumption, but chiefly upon matter of plain and direct proofs; therefore it hath been thought fit to publish to the world a brief declara-

* See ante, 274.

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tion of the practices and treasons attempted and committed by Robert late earl of Essex and his complices against her majesty and her kingdoms, and of the proceedings at the convictions of the said late earl and his adherents upon the same treasons: and not so only, but therewithal, for the better warranting and verifying of the narration, to set down in the end the very confessions and testimonies themselves word for word, taken out of the originals, whereby it will be most manifest that nothing is obscured or disguised, though it do appear by divers most wicked and seditious libels thrown abroad, that the dregs of these treasons which the late earl of Essex himself, a little before his death, did term a leprosy, that had infected far and near, do yet remain in the hearts and tongues of some misaffected persons.

The most partial will not deny, but that Robert late earl of Essex was, by her majesty's manifold benefits and graces, besides oath and allegiance, as much tied to her majesty, as the subject could be to the sovereign; her majesty having heaped upon him both dignities, offices, and gifts, in such measure, as within the circle of twelve years, or more, there was scarcely a year of rest, in which he did not obtain at her majesty's hands some notable addition either of honour or profit.

But he on the other side making these her majesty's favours nothing else but wings for his ambition, and looking upon them not as her benefits, but as his advantages, supposing that to be his own metal which was but her mark and impression, was so

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given over by God, who often punisheth ingratitude by ambition, and ambition by treason, and treason by final ruin, as he had long ago plotted it in his heart to become a dangerous supplanter of that seat, whereof he ought to have been a principal supporter; in such sort as now every man of common sense may discern not only his last actual and open treasons, but also his former more secret practices and preparations towards those his treasons, and that without any gloss or interpreter, but himself and his own doings.

For first of all, the world can now expound why it was that he did aspire, and had almost attained unto a greatness, like unto the ancient greatness of the "præfectus prætorio" under the emperors of Rome, to have all men of war to make their sole and particular dependence upon him; that with such jealousy and watchfulness he sought to discountenance any one that might be a competitor to him in any part of that greatness, that with great violence and bitterness he sought to suppress and keep down all the worthiest martial men, which did not appropriate their respects and acknowledgements only towards himself. All which did manifestly detect and distinguish, that it was not the reputation of a famous leader in the wars which he sought, as it was construed a great while, but only power and greatness to serve his own ends, considering he never loved virtue nor valour in another, but where he thought he should be proprietary and commander of it, as referred to himself.

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So likewise those points of popularity which every man took notice and note of, as his affable gestures, open doors, making his table and his bed so popularly places of audience to suitors, denying nothing when he did nothing, feeding many men in their discontentments against the queen and the state, and the like; as they were ever since Absalom's time the forerunners of treasons following, so in him were they either the qualities of a nature disposed to disloyalty, or the beginnings and conceptions of that which afterwards grew to shape and form.

But as it were a vain thing to think to search the roots and first motions of treasons, which are known to none but God that discerns the heart, and the devil that gives the instigation; so it is more than to be presumed, being made apparent by the evidence of all the events following, that he carried into Ireland a heart corrupted in his allegiance, and pregnant of those or the like treasons which afterwards came to light.

For being a man by nature of an high imagination, and a great promiser to himself as well as to others, he was confident that if he were once the first person in a kingdom, and a sea between the queen's seat and his, and Wales the nearest land from Ireland, and that he had got the flower of the English forces into his hands, which he thought so to intermix with his own followers, as the whole body should move by his spirit, and if he might have also absolutely into his own hands "potestatem vitæ

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et necis, et arbitrium belli et pacis," over the rebels of Ireland, whereby he might entice and make them his own, first by pardons and conditions, and after by hopes to bring them in place where they should serve for hope of better booties than cows, he should be able to make that place of lieutenancy of Ireland as a rise or step to ascend to his desired greatness in England.

And although many of these conceits were windy, yet neither were they the less like to his; neither are they now only probable conjectures or comments upon these his last treasons, but the very preludes of actions almost immediately subsequent, as shall be touched in due place.

But first, it was strange with what appetite and thirst he did affect and compass the government of Ireland, which he did obtain. For although he made some formal shews to put it from him; yet in this, as in most things else, his desires being too strong for his dissimulations, he did so far pass the bounds of decorum, as he did in effect name himself to the queen by such description and such particularities as could not be applied to any other but himself; neither did he so only, but farther, he was still at hand to offer and urge vehemently and peremptorily exceptions to any other that was named.

Then after he once found that there was no man but himself, who had other matters in his head, so far in love with that charge, as to make any competition or opposition to his pursuit, whereby he saw it would fall upon him, and especially after himself

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was resolved upon; he began to make propositions to her majesty by way of taxation of the former course held in managing the actions of Ireland, especially upon three points; the first, that the proportions of forces which had been there maintained and continued by supplies, were not sufficient to bring the prosecutions there to period. The second, that the axe had not been put to the root of the tree, in regard there had not been made a main prosecution upon the arch-traitor Tyrone in his own strength, within the province of Ulster. The third, that the prosecutions before time had been intermixed and interrupted with too many temporizing treaties, whereby the rebel did ever gather strength and reputation to renew the war with advantage. All which goodly and well-sounding discourses, together with the great vaunts, that he would make the earth tremble before him, tended but to this, that the queen should increase the list of her army, and all proportions of treasure and other furniture, to the end his commandment might be the greater. For that he never intended any such prosecution, may appear by this, that even at the time before his going into Ireland, he did open himself so far in speech to Blunt, his inwardest counsellor, "That he did assure himself that many of the rebels in Ireland would be advised by him:" so far was he from intending any prosecution towards those in whom he took himself to have interest. But his ends were two; the one, to get great forces into his hands; the other, to oblige the

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heads of the rebellion unto him, and to make them of his party. These two ends had in themselves a repugnancy; for the one imported prosecution, and the other treaty: but he that meant to be too strong to be called to account for any thing, and meant besides, when he was once in Ireland, to engage himself in other journeys that should hinder the prosecution in the North, took things in order as they made for him; and so first did nothing, as was said, but trumpet a final and utter prosecution against Tyrone in the North, to the end to have his forces augmented.

But yet he forgat not his other purpose of making himself strong by a party amongst the rebels, when it came to the scanning of the clauses of his commission. For then he did insist, and that with a kind of contestation, that the pardoning, no not of Tyrone himself, the capital rebel, should be excepted and reserved to her majesty's immediate grace; being infinitely desirous that Tyrone should not look beyond him for his life or pardon, but should hold his fortune as of him, and account for it to him only.

So again, whereas in the commission of the earl of Sussex, and of all other lieutenants or deputies, there was ever in that clause, which giveth unto the lieutenant or deputy that high or regal point of authority to pardon treasons and traitors, an exception contained of such cases of treason as are committed against the person of the king; it was strange, and suspiciously strange even at that time,



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with what importunity and instance he did labour, and in the end prevailed to have that exception also omitted, glossing then, that because he had heard that by strict exposition of law, (a point in law that he would needs forget at his arraignment, but could take knowledge of it before, when it was to serve his own ambition,) all treasons of rebellion did tend to the destruction of the king's person, it might breed a buz in the rebels heads, and so discourage them from coming in: whereas he knew well that in all experience passed, there was never rebel made any doubt or scruple upon that point to accept of pardon from all former governors, who had their commissions penned with that limitation, their commissions being things not kept secretly in a box, but published and recorded: so as it appeared manifestly that it was a mere device of his own out of the secret reaches of his heart then not revealed; but it may be shrewdly expounded since, what his drift was, by those pardons which he granted to Blunt the marshal, and Thomas Lee, and others, that his care was no less to secure his own instruments than the rebels of Ireland.

Yet was there another point for which he did contend and contest, which was, that he might not be tied to any opinion of the council of Ireland, as all others in certain points, as pardoning traitors, concluding war and peace, and some other principal articles, had been before him; to the end he might be absolute of himself, and be fully master of oppor-

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tunities and occasions for the performing and executing of his own treasonable ends.

But after he had once, by her majesty's singular trust and favour toward him, obtained his patent of commission as large, and his list of forces as full as he desired, there was an end in his course of the prosecution in the North. For being arrived into Ireland, the whole carriage of his actions there was nothing else but a cunning defeating of that journey, with an intent, as appeared, in the end of the year, to pleasure and gratify the rebel with a dishonourable peace, and to contract with him for his own greatness.

Therefore not long after he had received the sword, he did voluntarily engage himself in an unseasonable and fruitless journey into Munster, a journey never propounded in the council there, never advertised over hither while it was past: by which journey her majesty's forces, which were to be preserved intire both in vigour and number for the great prosecution, were harassed and tired with long marches together, and the Northern prosecution was indeed quite dashed and made impossible.

But yet still doubting he might receive from her majesty some quick and express commandment to proceed; to be sure he pursued his former device of wrapping himself in other actions, and so set himself on work anew in the county of Ophaley, being resolved, as is manifest, to dally out the season, and never to have gone that journey at all: that setting

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forward which he made in the very end of August being but a mere play and a mockery, and for the purposes which now shall be declared.

After he perceived that four months of the summer, and three parts of the army were wasted, he thought now was a time to set on foot such a peace as might be for the rebels advantage, and so to work a mutual obligation between Tyrone and himself; for which purpose he did but seek a commodity. He had there with him in his army one Thomas Lee, a man of a seditious and working spirit, and one that had been privately familiar and entirely beloved of Tyrone, and one that afterwards, immediately upon Essex's open rebellion, was apprehended for a desperate attempt of violence against her majesty's person; which he plainly confessed, and for which he suffered. Wherefore judging him to be a fit instrument, he made some signification to Lee of such an employment, which was no sooner signified than apprehended by Lee. He gave order also to Sir Christopher Blunt, marshal of his army, to license Lee to go to Tyrone, when he should require it. But Lee thought good to let slip first unto Tyrone, which was nevertheless by the marshal's warrant, one James Knowd, a person of wit and sufficiency, to sound in what terms and humours Tyrone then was. This Knowd returned a message from Tyrone to Lee, which was, That if the earl of Essex would follow Tyrone's plot, he would make the earl of Essex the greatest man that ever was in England: and farther, that if the earl would

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have conference with him, Tyrone would deliver his eldest son in pledge for his assurance. This message was delivered by Knowd to Lee, and by Lee was imparted to the earl of Essex, who after this message employed Lee himself to Tyrone, and by his negociating, whatsoever passed else, prepared and disposed Tyrone to the parley.

And this employment of Lee was a matter of that guiltiness in my lord, as, being charged with it at my lord keeper's only in this nature, for the message of Knowd was not then known, that when he pretended to assail Tyrone, he had before underhand agreed upon a parley, my lord utterly denied it that he ever employed Lee to Tyrone at all, and turned it upon Blunt, whom he afterwards required to take it upon him, having before sufficiently provided for the security of all parts, for he had granted both to Blunt and Lee pardons of all treasons under the great seal of Ireland, and so, himself disclaiming it, and they being pardoned, all was safe.

But when that Tyrone was by these means, besides what others, God knows, prepared to demand a parley, now was the time for Essex to acquit himself of all the queen's commandments, and his own promises and undertakings for the Northern journey; and not so alone, but to have the glory at the disadvantage of the year, being but 2,500 strong of foot, and 300 of horse, after the fresh disaster of Sir Conyers Clifford, in the height of the rebels pride, to set forth to assail, and then that the very terror and reputation of my lord of

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Essex person was such as did daunt him and make him stoop to seek a parley; and this was the end he shot at in that September journey, being a mere abuse and bravery, and but inducements only to the treaty, which was the only matter he intended. For Essex drawing now towards the catastrophe, or last part of that tragedy, for which he came upon the stage in Ireland, his treasons grew to a farther ripeness. For knowing how unfit it was for him to communicate with any English, even of those whom he trusted most, and meant to use in other treasons, that he had an intention to grow to an agreement with Tyrone, to have succours from him for the usurping upon the state here (not because it was more dangerous than the rest of his treasons, but because it was more odious, and in a kind monstrous, that he should conspire with such a rebel, against whom he was sent; and therefore might adventure to alienate mens affections from him;) he drave it to this, that there might be, and so there was, under colour of treaty, an interview and private conference between Tyrone and himself only, no third person admitted. A strange course, considering with whom he dealt, and especially considering what message Knowd had brought, which should have made him rather call witnesses to him, than avoid witnesses. But he being only true to his own ends, easily dispensed with all such considerations. Nay, there was such careful order taken, that no person should overhear one word that passed between them two, as, because the place appointed

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and used for the parley was such, as there was the depth of a brook between them, which made them speak with some loudness, there were certain horsemen appointed by order from Essex, to keep all men off a great distance from the place.

It is true, that the secrecy of that parley, as it gave to him the more liberty of treason, so it may give any man the more liberty of surmise what was then handled between them, inasmuch as nothing can be known, but by report from one of them two, either Essex or Tyrone.

But although there were no proceeding against Essex upon these treasons, and that it were a needless thing to load more treasons upon him then, whose burden was so great after; yet, for truth's sake, it is fit the world know what is testified touching the speeches, letters, and reports of Tyrone, immediately following this conference, and observe also what ensued likewise in the designs of Essex himself.

On Tyrone's part it fell out, that the very day after that Essex came to the court of England, Tyrone having conference with Sir William Warren at Armagh, by way of discourse told him, and bound it with an oath, and iterated it two or three several times; That within two or three months he should see the greatest alterations and strangest that ever he saw in his life, or could imagine: and that he the said Tyrone hoped ere long to have a good share in England. With this concurred fully the report of Richard Bremingham, a gentleman of the pale,

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having made his repair about the same time to Tyrone, to right him in a cause of land; saving that Bremingham delivers the like speech of Tyrone to himself; but not what Tyrone hoped, but what Tyrone had promised in these words, That he had promised, it may be thought to whom, ere long to shew his face in England, little to the good of England.

These generalties coming immediately from the report of Tyrone himself, are drawn to more particularity in a conference had between the lord Fitz-Morrice, baron of Liksnaw in Munster, and one Thomas Wood, a person well reputed of, immediately after Essex coming into England. In which conference Fitz-Morrice declared unto Wood, that Tyrone had written to the traitorous titulary earl of Desmond to inform him, that the condition of that contract between Tyrone and Essex was, That Essex should be king of England; and that Tyrone should hold of him the honour and state of viceroy of Ireland; and that the proportion of soldiers which Tyrone should bring or send to Essex, were 8,000 Irish. With which concurreth fully the testimony of the said James Knowd, who, being in credit with Owny Mac Roory, chief of the Omoores in Lemster, was used as a secretary for him, in the writing of a letter to Tyrone, immediately after Essex coming into England. The effect of which letter was, To understand some light of the secret agreement between the earl of Essex and Tyrone,

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that he the said Owny might frame his course accordingly. Which letter, with farther instructions to the same effect, was in the presence of Knowd, delivered to Turlagh Macdauy, a man of trust with Owny, who brought an answer from Tyrone: the contents whereof were, That the earl of Essex had agreed to take his part, and that they should aid him towards the conquest of England.

Besides, very certain it is, and testified by divers credible persons, that immediately upon this parley, there did fly abroad, as sparkles of this fire, which it did not concern Tyrone so much to keep secret, as it did Essex, a general and received opinion, that went up and down in the mouths both of the better and meaner sort of rebels; That the Earl of Essex was theirs, and they his; and that he would never leave the one sword, meaning that of Ireland, till he had gotten the other in England; and that he would bring them to serve, where they should have other manner of booties than cows; and the like speeches. And Thomas Lee himself, who had been, as was before declared, with Tyrone two or three days, upon my lord's sending, and had sounded him, hath left it confessed under his hand; That he knew the earl of Essex and Tyrone to be one, and to run the same courses.

And certain it is also, that immediately upon that parley, Tyrone grew into a strange and unwonted pride, and appointed his progresses and visitations to receive congratulations and homages from his con-

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federates, and behaved himself in all things as one that had some new spirit of hope and courage put into him.

But on the earl of Essex his part insued immediately after this parley a strange motion and project, which though no doubt he had harboured in his breast before; yet, for any thing yet appeareth, he did not utter and break with any in it, before he had been confirmed and fortified in his purpose, by the combination and correspondence which he found in Tyrone upon their conference. Neither is this a matter gathered out of reports, but confessed directly by two of his principal friends and associates, being witnesses upon their own knowledge, and of that which was spoken to themselves: the substance of which confession is this: That a little before my lord's coming over into England, at the castle of Dublin, where Sir Christopher Blunt lay hurt, having been lately removed thither from Rheban, a castle of Thomas Lee's, and placed in a lodging that had been my lord of Southampton's; the earl of Essex took the earl of Southampton with him to visit Blunt, and there being none present but they three, my lord of Essex told them, he found it now necessary for him to go into England, and would advise with them of the manner of his going, since to go he was resolved. And thereupon propounded unto them, that he thought it fit to carry with him of the army in Ireland as much as he could conveniently transport, at least the choice of it, to the number of two or three thousand, to secure and

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make good his first descent on shore, purposing to land them at Milford-Haven in Wales, or thereabouts: not doubting, but that his army would so increase within a small time, by such as would come in to him, as he should be able to march with his power to London, and make his own conditions as he thought good. But both Southampton and Blunt dissuaded him from this enterprise; Blunt alleging the hazard of it, and that it would make him odious: and Southampton utterly disliking of that course, upon the same and many other reasons. Howbeit, thereupon Blunt advised him rather to another course, which was to draw forth of the army some 200 resolute gentlemen, and with those to come over, and so to make sure of the court, and so to make his own conditions. Which confessions it is not amiss to deliver, by what a good providence of God they came to light: for they could not be used at Essex's arraignment to charge him, because they were uttered after his death.

But Sir Christopher Blunt at his arraignment, being charged that the earl of Essex had set it down under his hand, that he had been a principal instigator of him to his treasons, in passion brake forth into these speeches: That then he must be forced to disclose what farther matters he had held my lord from, and desired for that purpose, because the present proceeding should not be interrupted, to speak with the lord Admiral and Mr. Secretary after his arraignment, and so fell most naturally and most vo-

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luntarily into this his confession, which, if it had been thought fit to have required of him at that time publicly, he had delivered before his conviction. And the same confession he did after, at the time of his execution, constantly and fully confirm, discourse particularly, and take upon his death, where never any man shewed less fear, nor a greater resolution to die.

And the same matter so by him confessed, was likewise confessed with the same circumstances of time and place by Southampton, being severally examined thereupon.

So as now the world may see how long since my lord put off his vizard, and disclosed the secrets of his heart to two of his most confident friends, falling upon that unnatural and detestable treason, whereunto all his former actions in his government in Ireland, and God knows how long before, were but introductions.

But finding that these two persons, which of all the rest he thought to have found forwardest, Southampton, whose displacing he had made his own discontentment, having placed him, no question to that end, to find cause of discontentment, and Blunt, a man so enterprising and prodigal of his own life, as himself termed himself at the bar, did not applaud to this his purpose, and thereby doubting how coldly he should find others minded, that were not so near to him; and therefore condescending to Blunt's advice to surprise the court, he did pursue that plot accordingly, and came over with a selected company

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of captains and voluntaries, and such as he thought were most affectionate unto himself, and most resolute, though not knowing of his purpose. So as even at that time every man noted and wondered what the matter should be, that my lord took his most particular friends and followers, from their companies, which were countenance and means unto them, to bring them over. But his purpose, as in part was touched before, was this; that if he held his greatness in court, and were not committed, which, in regard of the miserable and deplored estate he left Ireland in, whereby he thought the opinion here would be that his service could not be spared, he made full account he should not be, then, at the first opportunity, he would execute the surprise of her majesty's person. And if he were committed to the Tower, or to prison, for his contempts, for, besides his other contempts, he came over expressly against the queen's prohibition under her signet, it might be the care of some of his principal friends, by the help of that choice and resolute company which he brought over, to rescue him.

But the pretext of his coming over was, by the efficacy of his own presence and persuasion to have moved and drawn her majesty to accept of such conditions of peace as he had treated of with Tyrone in his private conference; which was indeed somewhat needful, the principal article of them being, That there should be a general restitution of rebels in Ireland to all their lands and possessions, that they could pretend any right to before their going

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out into rebellion, without reservation of such lands as were by act of parliament passed to the crown, and so planted with English, both in the time of queen Mary, and since; and without difference either of time of their going forth, or nature of their offence, or other circumstance: tending in effect to this, that all the queen's good subjects, in most of the provinces, should have been displanted, and the country abandoned to the rebels.

When this man was come over, his heart thus fraughted with treasons, and presented himself to her majesty; it pleased God, in his singular providence over her majesty, to guide and hem in her proceeding towards him in a narrow way of safety between two perils. For neither did her majesty leave him at liberty, whereby he might have commodity to execute his purpose; nor restrain him in any such nature, as might signify or betoken matter of despair of his return to court and favour. And so the means of present mischief being taken away, and the humours not stirred, this matter fell asleep, and the thread of his purposes was cut off. For coming over about the end of September, and not denied access and conference with her majesty, and then being commanded to his chamber at court for some days, and from thence to the lord-keeper's house, it was conceived that these were no ill signs. At my lord-keeper's house he remained till some few days before Easter, and then was removed to his own house, under the custody of Sir Richard Barkley,

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and in that sort continued till the end of Trinity term following.

For her majesty, all this while looking into his faults with the eye of her princely favour, and loth to take advantage of his great offences, in other nature than as contempts, resolved so to proceed against him, as might, to use her majesty's own words, tend " ad correctionem, et non ad ruinam."

Nevertheless afterwards, about the end of Trinity term following, for the better satisfaction of the world, and to repress seditious bruits and libels which were dispersed in his justification, and to observe a form of justice before he should be set at full liberty; her majesty was pleased to direct, that there should be associate unto her privy council some chosen persons of her nobility, and of her judges of the law, and before them his cause, concerning the breaking of his instructions for the Northern prosecution, and the manner of his treating with Tyrone, and his coming over, and leaving the kingdom of Ireland contrary to her majesty's commandment, expressed as well by signification thereof, made under her royal hand and signet, as by a most binding and effectual letter written privately to himself, to receive a hearing; with limitation, nevertheless, that he should not be charged with any point of disloyalty; and with like favour directed, that he should not be called in question in the open and ordinary place of offenders, in the Star-chamber, from which he had likewise, by a most penitent and humble

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letter, desired to be spared, as that which would have wounded him for ever, as he affirmed, but in a more private manner, at my lord-keeper's house. Neither was the effect of the sentence, that there passed against him, any more than a suspension of the exercise of some of his places: at which time also, Essex, that could vary himself into all shapes for a time, infinitely desirous, as by the sequel now appeareth, to be at liberty to practise and revive his former purposes, and hoping to set into them with better strength than ever, because he conceived the people's hearts were kindled to him by his troubles, and that they had made great demonstrations of as much; he did transform himself into such a strange and dejected humility, as if he had been no man of this world, with passionate protestations that he called God to witness, That he had made an utter divorce with the world; and he desired her majesty's favour not for any worldly respect, but for a preparative for a "Nunc dimittis"; and that the tears of his heart had quenched in him all humours of ambition. All this to make her majesty secure, and to lull the world asleep, that he was not a man to be held any ways dangerous.

Not many days after, Sir Richard Barkley, his keeper, was removed from him, and he set at liberty with this admonition only, That he should not take himself to be altogether discharged, though he were left to the guard of none but his own discretion. But he felt himself no sooner upon the wings of his liberty, but, notwithstanding his former shews of a

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mortified estate of mind, he began to practise afresh as busily as ever, reviving his former resolution; which was the surprising and possessing the queen's person and the court. And that it may appear how early after his liberty he set his engines on work, having long before entertained into his service, and during his government in Ireland drawn near unto him in the place of his chief secretary, one Henry Cuffe, a base fellow by birth, but a great scholar, and indeed a notable traitor by the book, being otherwise of a turbulent and mutinous spirit against all superiors.

This fellow, in the beginning of August, which was not a month after Essex had liberty granted, fell of practising with Sir Henry Nevil, that served her majesty as leiger ambassador with the French king, and then newly come over into England from Bulloign, abusing him with a false lie and mere invention, that his service was blamed and misliked, and that the imputation of the breach of the treaty of peace held at Bulloign was like to light upon him, when there was no colour of any such matter, only to distaste him of others, and fasten him to my lord, though he did not acquaint him with any particulars of my lord's designs till a good while after.

But my lord having spent the end of the summer, being a private time, when every body was out of town and dispersed, in digesting his own thoughts, with the help and conference of Mr. Cuffe, they had soon set down between them the ancient principle of traitors and conspirators, which was, to prepare many,



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and to acquaint few; and, after the manner of miners, to make ready their powder, and place it, and then give fire but in the instant. Therefore, the first consideration was of such persons as my lord thought fit to draw to be of his party; singling out both of nobility and martial men, and others, such as were discontented or turbulent, and such as were weak of judgment, and easy to be abused, or such as were wholly dependents and followers, for means or countenance, of himself, Southampton, or some other of his greatest associates.

And knowing there were no such strong and drawing cords of popularity as religion, he had not neglected, both at this time and long before, in a profane policy to serve his turn, for his own greatness, of both sorts and factions, both of Catholics and puritans, as they term them, turning his outside to the one, and his inside to the other; and making himself pleasing and gracious to the one sort by professing zeal, and frequenting sermons, and making much of preachers, and secretly underhand giving assurance to Blunt, Davis, and divers others, that, if he might prevail in his desired greatness, he would bring in a toleration of the catholic religion.

Then having passed the whole Michaelmas term in making himself plausible, and in drawing concourse about him, and in affecting and alluring men by kind provocations and usage, wherein, because his liberty was qualified, he neither forgot exercise of mind nor body, neither sermon nor tennis-court, to give the occasion and freedom of access and con-

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course unto him, and much other practice and device; about the end of that term, towards Christmas, he grew to a more framed resolution of the time and manner, when and how he would put his purpose in execution. And first, about the end of Michaelmas term, it passed as a kind of cypher and watch-word amongst his friends and followers, That my lord would stand upon his guard: which might receive construction, in a good sense, as well guard of circumspection, as guard of force: but to the more private and trusty persons he was content it should be expounded that he would be cooped up no more, nor hazard any more restraints or commandments.

But the next care was how to bring such persons, as he thought fit for his purpose, into town together, without vent of suspicion, to be ready at the time, when he should put his design in execution; which he had concluded should be some time in Hilary term; wherein he found many devices to draw them up, some for suits in law, and some for suits in court, and some for assurance of land: and one friend to draw up another, it not being perceived that all moved from one head. And it may be truly noted, that in the catalogue of those persons that were the eighth of February in the action of open rebellion, a man may find almost out of every country of England some; which could not be by chance or constellation: and in the particularity of examinations, too long to be rehearsed, it was easy to trace in what sort many of them were brought up to town, and held in town upon several pretences. But in

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Candlemas term, when the time drew near, then was he content consultation should be had by certain choice persons, upon the whole matter and course which he should hold. And because he thought himself and his own house more observed, it was thought fit that the meeting and conference should be at Drury-house, where Sir Charles Davers lodged. There met at this council, the earl of Southampton, with whom in former times he had been at some emulations and differences in court: but after, Southampton having married his kinswoman, and plunged himself wholly into his fortune, and being his continual associate in Ireland, he accounted of him as most assured unto him, and had long ago in Ireland acquainted him with his purpose, as was declared before: Sir Charles Davers, one exceedingly devoted to the earl of Southampton, upon affection begun first upon the deserving of the same earl towards him, when he was in trouble about the murder of one Long: Ser Ferdinando Gorge, one that the earl of Essex had of purpose sent for up from his government at Plymouth by his letter, with particular assignation to be here before the second of February: Sir John Davis, one that had been his servant, and raised by him, and that bare office in the Tower, being surveyor of the ordnance, and one that he greatly trusted: and John Littleton, one they respected for his wit and valour.

The consultation and conference rested upon three parts: the perusal of a list of those persons, whom they took to be of their party; the consideration of

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the action itself which they should set a-foot, and how they should proceed in it; and the distribution of the persons, according to the action concluded on, to their several employments.

The list contained the number of sixscore persons, noblemen, and knights, and principal gentlemen, and was, for the more credit's sake, of the earl of Essex own hand-writing.

For the action itself, there was proposition made of two principal articles: the one of possessing the Tower of London; the other of surprising her majesty's person and the court; in which also deliberation was had, what course to hold with the city, either towards the effecting of the surprise, or after it was effected.

For the Tower, was alleged the giving a reputation to the action, by getting into their hand the principal fort of the realm, with the stores and provisions thereunto appertaining, the bridling of the city by that piece, and commodity of entrance in and possessing it, by the means of Sir John Davis. But this was by opinion of all rejected, as that which would distract their attempt from the more principal, which was the court, and as that which they made a judgment would follow incidently, if the court were once possessed.

But the latter, which was the ancient plot, as was well known to Southampton, was in the end, by the general opinion of them all, insisted and rested upon.

And the manner how it should be ordered and

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disposed was this: That certain selected persons of their number, such as were well known in court, and might have access, without check or suspicion, into the several rooms in court, according to the several qualities of the persons, and the differences of the rooms, should distribute themselves into the presence, the guard-chamber, the hall, and the utter court and gate, and some one principal man undertaking every several room with the strength of some few to be joined with him, every man to make good his charge, according to the occasion. In which distribution, Sir Charles Davers was then named to the presence, and to the great chamber, where he was appointed, when time should be, to seize upon the halberds of the guard; Sir John Davis to the hall; and Sir Christopher Blunt to the utter gate; these seeming to them the three principal wards of consideration: and that things being within the court in a readiness, a signal should be given and sent to Essex, to set forward from Essex-house, being no great distance off. Whereupon Essex, accompanied with the noblemen of his party, and such as should be prepared and assembled at his house for that purpose, should march towards the court; and that the former conspirators already entered should give correspondence to them without, as well by making themselves masters of the gates to give them entrance, as by attempting to get into their hand upon the sudden the halberds of the guard, thereby hoping to prevent any great resistance within, and by filling all full of tumult and confusion.

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This being the platform of their enterprise, the second act of this tragedy was also resolved, which was, that my lord should present himself to her majesty, as prostrating himself at her feet, and desire the remove of such persons as he called his enemies from about her. And after that my lord had obtained possession of the queen, and the state, he should call his pretended enemies to a trial upon their lives, and summon a parliament, and alter the government, and obtain to himself and his associates such conditions as seemed to him and them good.

There passed a speech also in this conspiracy of possessing the city of London, which Essex himself, in his own particular and secret inclination, had ever a special mind unto: not as a departure or going from his purpose of possessing the court, but as an inducement and preparative to perform it upon a surer ground; an opinion bred in him, as may be imagined, partly by the great overweaning he had of the love of the citizens; but chiefly, in all likelihood, by a fear, that although he should have prevailed in getting her majesty's person into his hands for a time, with his two or three hundred gentlemen, yet the very beams and graces of her majesty's magnanimity and prudent carriage in such disaster, working with the natural instinct of loyalty, which of course, when fury is over, doth ever revive in the hearts of subjects of any good blood or mind, such as his troop for the more part was compounded of, though by him seduced and bewitched, would quick-

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ly break the knot, and cause some disunion and separation amongst them, whereby he might have been left destitute, except he should build upon some more popular number, according to the nature of all usurping rebels, which do ever trust more in the common people, than in persons of sort or quality. And this may well appear by his own plot in Ireland, which was to have come with the choice of the army, from which he was diverted, as before is shewed. So as his own courses inclined ever to rest upon the main strength of the multitude, and not upon surprises, or the combinations of a few.

But to return: these were the resolutions taken at that consultation, held by these five at Drury-house, some five or six days before the rebellion, to be reported to Essex, who ever kept in himself the binding and directing voice: which he did to prevent all differences that might grow by dissent or contradiction. And besides he had other persons, which were Cuffe and Blunt, of more inwardness and confidence with him than these, Southampton only excepted, which managed that consultation. And, for the day of the enterprise, which is that must rise out of the knowledge of all the opportunities and difficulties, it was referred to Essex his own choice and appointment; it being nevertheless resolved, that it should be some time before the end of Candlemas term.

But this council and the resolutions thereof, were in some points refined by Essex, and Cuffe, and Blunt: for, first it was thought good, for the better

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making sure of the utter gate of the court, and the greater celerity and suddenness, to have a troop at receipt to a competent number, to have come from the Mews, where they should have been assembled without suspicion in several companies, and from thence cast themselves in a moment upon the court-gate, and join with them which are within, while Essex with the main of his company were making forward.

It was also thought fit, that because they would be commonwealth's men, and foresee, that the business and service of the public state should not stand still; they should have ready at court, and at hand, certain other persons to be offered, to supply the offices and places of such her majesty's counsellors and servants, as they should demand to be removed and displaced.

But chiefly it was thought good, that the assembling of their companies together should be upon some plausible pretext: both to make divers of their company, that understood not the depth of the practices, the more willing to follow them; and to engage themselves, and to gather them together the better without peril of detecting or interrupting: and again, to take the court the more unprovided, without any alarm given. So as now there wanted nothing but the assignation of the day: which nevertheless was resolved indefinitely to be before the end of the term, as was said before, for the putting in execution of this most dangerous and execrable treason. But God, who had in his divine providence

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long ago cursed this action with the curse that the psalm speaketh of, "That it should be like the untimely fruit of a woman, brought forth before it came to perfection," so disposed above, that her majesty, understanding by a general charm and muttering of the great and universal resort to Essex-house, contrary to her princely admonition, and somewhat differing from his former manner, as there could not be so great fire without some smoke, upon the seventh of February, the afternoon before this rebellion, sent to Essex-house Mr. Secretary Herbert, to require him to come before the lords of her majesty's council, then sittting in council at Salisbury-court, being the lord treasurer's house: where it was only intended, that he should have received some reprehension, for exceeding the limitations of his liberty, granted to him in a qualified manner, without any intention towards him of restraint; which he, under colour of not being well, excused to do: but his own guilty conscience applying it, that his trains were discovered, doubting peril in any farther delay, determined to hasten his enterprise, and to set it on foot the next day.

But then again, having some advertisement in the evening, that the guards were doubled at court, and laying that to the message he had received overnight; and so concluding that alarm was taken at court, he thought it to be in vain to think of the enterprise of the court, by way of surprise: but that now his only way was, to come thither in strength, and to that end first to attempt the city: wherein

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he did but fall back to his own former opinion, which he had in no sort neglected, but had formerly made some overtures to prepare the city to take his part; relying himself, besides his general conceit, that himself was the darling and minion of the people, and specially of the city, more particularly upon assurance given of Thomas Smith, then sheriff of London, a man well beloved amongst the citizens, and one that had some particular command of some of the trained forces of the city, to join with him. Having therefore concluded upon this determination, now was the time to execute in fact all that he had before in purpose digested.

First, therefore, he concluded of a pretext which was ever part of the plot, and which he had meditated upon and studied long before. For finding himself, thanks be to God, to seek, in her majesty's government, of any just pretext in matter of state, either of innovation, oppression, or any unworthiness: as in all his former discontentments he had gone the beaten path of traitors, turning their imputation upon counsellors, and persons of credit with their sovereign; so now he was forced to descend to the pretext of a private quarrel, giving out this speech, how that evening, when he should have been called before the lords of the council, there was an ambuscade of musketeers placed upon the water, by the device of my lord Cobham and Sir Walter Raleigh, to have murdered him by the way as he passed: a matter of no probability; those persons having no such desperate estates or minds, as to ruin them-

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selves and their posterity, by committing so odious a crime.

But contrariwise, certain it is, Sir Ferdinando Gorge accused Blunt, to have persuaded him to kill, or at least apprehend Sir Walter Raleigh; the latter whereof Blunt denieth not, and asked Sir Walter Raleigh forgiveness at the time of his death.

But this pretext, being the best he had, was taken: and then did messages and warnings fly thick up and down to every particular nobleman and gentleman, both that evening and the next morning, to draw them together in the forenoon to Essex-house, dispersing the foresaid fable, That he should have been murdered; save that it was sometime on the water, sometime in his bed, varying according to the nature of a lie. He sent likewise the same night certain of his instruments, as namely, one William Temple, his secretary, into the city to disperse the same tale, having increased it some few days before by an addition, That he should have been likewise murdered by some Jesuits to the number of four: and to fortify this pretext, and to make the more buz of the danger he stood in, he caused that night a watch to be kept all night long, towards the street, in his house. The next morning, which was Sunday, they came unto him of all hands, according to his messages and warnings: of the nobility, the earls of Rutland, Southampton, and the lord Sands, and Sir Henry Parker, commonly called the lord Mountegle; besides divers knights and

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principal gentlemen and their followers, to the number of some three hundred. And also it being Sunday, and the hour when he had used to have a sermon at his house, it gave cause to some and colour to others to come upon that occasion. As they came, my lord saluted and embraced, and to the generality of them gave to understand, in as plausible terms as he could, That his life had been sought, and that he meant to go to the court and declare his griefs to the queen, because his enemies were mighty, and used her majesty's name and commandment; and desired their help to take his part; but unto the more special persons, he spake high, and in other terms, telling them, That he was sure of the city, and would put himself into that strength, that her majesty should not be able to stand against him, and that he would take revenge of his enemies.

All the while after eight of the clock in the morning, the gates to the street and water were strongly guarded, and men taken in and let forth by discretion of those that held the charge, but with special caution of receiving in such as came from court, but not suffering them to go back without my lord's special direction, to the end no particularity of that which passed there might be known to her majesty.

About ten of the clock, her majesty having understanding of this strange and tumultuous assembly at Essex-house, yet in her princely wisdom and moderation thought to cast water upon this fire before it brake forth to farther inconvenience: and

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therefore using authority before she would use force, sent unto him four persons of great honour and place, and such as he ever pretended to reverence and love, to offer him justice for any griefs of his, but yet to lay her royal commandment upon him to disperse his company, and upon them to withdraw themselves.

These four honourable persons, being the lord Keeper of the great seal of England, the earl of Worcester, the Comptroller of her majesty's household, and the lord Chief Justice of England, came to the house, and found the gates shut upon them. But after a little stay, they were let in at the wicket; and as soon as they were within, the wicket was shut, and all their servants kept out, except the bearer of the seal. In the court they found the earls with the rest of the company, the court in a manner full, and upon their coming towards Essex, they all flocked and thronged about them; whereupon the lord Keeper in an audible voice delivered to the earl the queen's message, That they were sent by her majesty to understand the cause of this their assembly, and to let them know that if they had any particular cause of griefs against any persons whatsover, they should have hearing and justice.

Whereupon the earl of Essex in a very loud and furious voice declared, That his life was sought, and that he should have been murdered in his bed, and that he had been perfidiously dealt withal; and other speeches to the like effect. To which the lord Chief Justice said, If any such matter were

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attempted or intended against him, it was fit for him to declare it, assuring him both a faithful relation on their part, and that they could not fail of a princely indifferency and justice on her majesty's part.

To which the earl of Southampton took occasion to object the assault made upon him by the lord Gray: which my lord Chief Justice returned upon him, and said, That in that case justice had been done, and the party was in prison for it.

Then the lord Keeper required the earl of Essex, that if he would not declare his griefs openly, yet that then he would impart them privately; and then they doubted not to give him or procure him satisfaction.

Upon this there arose a great clamour among the multitude: "Away, my lord, they abuse you, they betray you, they undo you, you lose time." Whereupon my lord Keeper put on his hat, and said with a louder voice than before, "My lord, let us speak with you privately, and understand your griefs; and I do command you all upon your allegiance, to lay down your weapons and to depart." Upon which words the earl of Essex and all the rest, as disdaining commandment, put on their hats; and Essex somewhat abruptly went from him into the house, and the counsellors followed him, thinking he would have private conference with them as was required.

And as they passed through the several rooms, they might hear many of the disordered company

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cry, "Kill them, kill them;" and others crying, "Nay, but shop them up, keep them as pledges, cast the great seal out at the window;" and other such audacious and traiterous speeches. But Essex took hold of the occasion and advantage, to keep in deed such pledges if he were distressed, and to have the countenance to lead them with him to the court, especially the two great magistrates of justice, and the great seal of England, if he prevailed, and to deprive her majesty of the use of their counsel in such a strait, and to engage his followers in the very beginning by such a capital act, as the imprisonment of counsellors carrying her majesty's royal commandment for the suppressing of a rebellious force.

And after that they were come up into his book-chamber, he gave order they should be kept fast, giving the charge of their custody principally to Sir John Davis, but adjoined unto him a warder, one Owen Salisbury, one of the most seditious and wicked persons of the number, having been a notorious robber, and one that served the enemy under Sir William Stanley, and that bare a special spleen unto my lord Chief Justice; who guarded these honourable persons with muskets charged, and matches ready fired at the chamber door.

This done, the earl, notwithstanding my lord Keeper still required to speak with him, left the charge of his house with Sir Gilly Merick; and, using these words to my lord Keeper, "Have patience for a while, I will go take order with the

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mayor and sheriffs for the city, and be with you again within half an hour;" issued with his troop into London, to the number of two hundred, besides those that remained in the house, choice men for hardiness and valour, unto whom some gentlemen and one nobleman did after join themselves.

But from the time he went forth, it seems God did strike him with the spirit of amazement, and brought him round again to the place whence he first moved.

For after he had once by Ludgate entered into the city, he never had so much as the heart or assurance to speak any set or confident speech to the people, (but repeated only over and over his tale as he passed by, that he should have been murdered,) nor to do any act of foresight or courage; but he that had vowed he would never be cooped up more, cooped himself first within the walls of the city, and after within the walls of an house, as arrested by God's justice as an example of disloyalty. For passing through Cheapside, and so towards Smith's house, and finding though some came about him, yet none joined or armed with him, he provoked them by speeches as he passed to arm, telling them, They did him hurt and no good, to come about him with no weapons.

But there was not in so populous a city, where he thought himself held so dear, one man, from the chiefest citizen to the meanest artificer or prentice, that armed with him: so as being extremely appalled, as divers that happened to see him then



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might visibly perceive in his face and countenance, and almost moulten with sweat, though without any cause of bodily labour but only by the perplexity and horror of his mind, he came to Smith's house the sheriff, where he refreshed himself a little and shifted him.

But the mean while it pleased God, that her majesty's directions at court, though in a case so strange and sudden, were judicial and sound. For first there was commandment in the morning given unto the city, that every man should be in a readiness both in person and armour, but yet to keep within his own door, and to expect commandment; upon a reasonable and politic consideration, that had they armed suddenly in the streets, if there were any ill disposed persons, they might arm on the one side and turn on the other, or at least, if armed men had been seen to and fro, it would have bred a greater tumult, and more blood-shed; and the nakedness of Essex's troop would not have so well appeared.

And soon after, direction was given that the lord Burghley, taking with him the king of heralds, should declare him traitor in the principal parts of the city; which was performed with good expedition and resolution, and the loss and hurt of some of his company. Besides that, the earl of Cumberland, and Sir Thomas Gerard, knight-marshal, rode into the city, and declared and notified to the people that he was a traitor: from which time divers of his troop withdrawing from him, and none other coming

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in to him, there was nothing but despair. For having stayed a while, as is said, at sheriff Smith's house, and there changing his pretext of a private quarrel, and publishing, that the realm should have been sold to the Infanta, the better to spur on the people to rise, and called, and given commandment to have arms brought and weapons of all sorts, and being soon after advertised of the proclamation, he came forth in a hurry.

So having made some stay in Gracechurch-street, and being dismayed upon knowledge given to him that forces were coming forwards against him under the conduct of the lord Admiral, the lieutenant of her majesty's forces; and not knowing what course to take, he determined in the end to go back towards his own house, as well in hope to have found the counsellors there, and by them to have served some turn, as upon trust that towards night his friends in the city would gather their spirits together, and rescue him, as himself declared after to the lieutenant of the Tower.

But for the counsellors, it had pleased God to make one of the principal offenders his instrument for their delivery; who seeing my lord's case desperate, and contriving how to redeem his fault and save himself, came to Sir John Davis, and Sir Gilly Merick, as sent from my lord; and so procured them to be released.

But the earl of Essex, with his company that was left, thinking to recover his house, made on by land towards Ludgate; where being resisted by a

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company of pikemen and other forces, gathered together by the wise and diligent care of the bishop of London, and commanded by Sir John Luson, and yet attempting to clear the passage, he was with no great difficulty repulsed. At which encounter Sir Christopher Blunt was sore wounded, and young Tracy slain on his part; and one Waits on the queen's part, and some others. Upon which repulse he went back and fled towards the water-side, and took boat at Queenhithe, and so was received into Essex-house at the water-gate, which he fortified and barricado'd; but instantly the lord-lieutenant so disposed his companies, as all passage and issue forth was cut off from him both by land and by water, and all succours that he might hope for were discouraged: and leaving the earl of Cumberland, the earl of Lincoln, the lord Thomas Howard, the lord Gray, the lord Burghley, and the lord Compton, Sir Walter Raleigh, Sir Thomas Gerard, with divers others, before the house to landward, my lord-lieutenant himself thought good, taking with him the lord of Effingham, lord Cobham, Sir John Stanhope, Sir Robert Sidney, M. Foulk Grevill, with divers others, to assail the garden and banqueting-house on the water-side, and presently forced the garden, and won to the walls of the house, and was ready to have assailed the house; but out of a Christian and honourable consideration, understanding that there were in the house the countess of Essex, and the lady Rich, with their gentlewomen, let the earl of Essex know by Sir Robert Sidney,

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that he was content to suffer the ladies and gentlewomen to come forth. Whereupon Essex returning the lord-lieutenant thanks for the compassion and care he had of the ladies, desired only to have an hour's respite to make way for their going out, and an hour after to barricado the place again: which because it could make no alteration to the hindrance of the service, the lord-lieutenant thought good to grant. But Essex, having had some talk within of a sally, and despairing of the success, and thinking better to yield himself, sent word, that upon some conditions he would yield.

But the lord-lieutenant utterly refusing to hear of capitulation, Essex desired to speak with my lord, who thereupon went up close to the house; and the late earls of Essex and Southampton, with divers other lords and gentlemen their partakers, presented themselves upon the leads; and Essex said, he would not capitulate, but intreat; and made three petitions. The first, that they might be civilly used: whereof the lord-lieutenant assured them. The second, that they might have an honourable trial: whereof, the lord-lieutenant answered, they needed not to doubt. The third, that he might have Ashton a preacher with him in prison for the comfort of his soul; which the lord-lieutenant said he would move to her majesty, not doubting of the matter of his request, though he could not absolutely promise him that person. Whereupon they all, with the ceremony amongst martial men accustomed, came down and submitted themselves, and

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yielded up their swords, which was about ten of the clock at night; there having been slain in holding of the house by musket-shot Owen Salisbury, and some few more on the part of my lord, and some few likewise slain and hurt on the queen's part: and presently, as well the lords as the rest of their confederates of quality, were severally taken into the charge of divers particular lords and gentlemen, and by them conveyed to the Tower and other prisons.

So as this action, so dangerous in respect of the person of the leader, the manner of the combination, and the intent of the plot, brake forth and ended within the compass of twelve hours, and with the loss of little blood, and in such sort as the next day all courts of justice were open, and did sit in their accustomed manner, giving good subjects and all reasonable men just cause to think, not the less of the offender's treason, but the more of her majesty's princely magnanimity and prudent foresight in so great a peril, and chiefly of God's goodness, that hath blessed her majesty in this, as in many things else, with so rare and divine felicity.

The effect of the evidence given at the several arraignments of the late earls of Essex and Southampton, before the lord Steward; and of Sir Christopher Blunt, and Sir Charles Davers, and others, before great and honourable Commissioners of Oyer and Terminer: and of the answers and defences which the said offenders

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made for themselves; and the replies made upon such their defences: with some other circumstances of the proceedings, as well at the same arraignments as after.

THE two late earls of Essex and Southampton were brought to their trial the nineteenth of February, eleven days after the rebellion. At which trial there passed upon them twenty-five peers, a greater number than hath been called in any former precedent. Amongst whom her majesty did not forbear to use many that were of near alliance and blood to the earl of Essex, and some others, that had their sons and heirs apparent that were of his company, and followed him in the open action of rebellion. The lord Steward then in commission, according to the solemnity in such trials received, was the lord Buckhurst, lord high treasurer, who with gravity and temperance directed the evidence, and moderated, and gave the judgment. There was also an assistance of eight judges, the three chief, and five others. The hearing was with great patience and liberty: the ordinary course not being held, to silence the prisoners till the whole state of the evidence was given in; but they being suffered to answer articulately to every branch of the evidence, and sometimes to every particular deposition, whensoever they offered to speak: and not so only, but they were often spared to be interrupted, even in their digressions and speeches not much pertinent to their cause. And always when any doubt in law

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was moved, or when it was required either by the prisoners or the peers, the lord Steward required the judges to deliver the law; who gave their opinions severally, not barely yea or no, but at large with their reasons.

In the indictment were not laid or charged the treasons of Ireland, because the greatest matter, which was the design to bring over the army of Ireland, being then not confessed nor known; it was not thought convenient to stuff the indictment with matters which might have been conceived to be chiefly gathered by curious inquisition, and grounded upon report or presumption, when there was other matter so notorious. And besides, it was not unlikely, that in his case, to whom many were so partial, some, who would not consider how things came to light by degrees, might have reported that he was twice called in question about one offence. And therefore the late treasons of his rebellion and conspiracy were only comprehended in the indictment, with the usual clauses and consequents in law, of compassing the queen's death, destruction, and deprivation, and levying war, and the like.

*The evidence consisted of two parts: the plot of surprising her majesty's person in court, and the open rebellion in the city.*

THE plot was opened according to the former narration, and proved by the several confessions of four witnesses, fully and directly concurring in the point; sir Christopher Blunt, sir Charles Davers,

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sir John Davis, and sir Ferdinando Gorge. Of which number, though sir Christopher Blunt were not at the council held at Drury-house, no more than Essex himself was; yet he was privy to that which passed. Sir Ferdinando Gorge being prisoner in the Gate-house, near the place of trial, was, at the request of the earl of Essex, brought thither, and avouched "viva voce" his confession in all things.

And these four proved all particularities of surprising the court, and the manner of putting the same in execution, and the distributing and naming of the principal persons and actors to their several charges; and the calling of my lord's pretended enemies to trial for their lives, and the summoning of a parliament, and the altering of the government. And sir Christopher Blunt, and sir John Davis from sir Christopher Blunt, did speak to the point of bringing in a toleration of the catholic religion.

*For the overt rebellion in the city itself, it was likewise opened, according to the former narration, and divided itself naturally into three parts.*

First, the imprisonment of the counsellors, bringing her majesty's royal commandment to them, upon their allegiance to disperse their forces. Secondly, the entering the city, and the stirring of the people to rise, as well by provoking them to arm, as by giving forth the slanders that the realm was sold to the Spaniard, and the assailing of the queen's forces at Ludgate. And thirdly, the resistance and keeping

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of the house against her majesty's forces under the charge and conduct of the lord-lieutenant.

And albeit these parts were matters notorious, and within almost every man's view and knowledge; yet, for the better satisfaction of the peers, they were fully proved by the oath of the lord chief justice of England, being there present, "viva voce," and the declaration of the Earl of Worcester, being one of the peers likewise, "viva voce," touching so much as passed about the imprisonment of themselves and the rest; and by the confessions of the earl of Rutland, the lord Sandys, the lord Cromwell, and others.

The defence of the late earl of Essex, touching the plot and consultation at Drury-house, was: That it was not proved that he was at it; and that they could shew nothing, proving his consent or privity, under his hand.

Touching the action in the city, he justified the pretext of the danger of his life to be a truth. He said that his speech, that the realm should have been sold to the Infanta of Spain, was grounded upon a report he had heard, that sir Robert Cecil should say privately, That the Infanta's title to the crown, after her majesty, was as good as any other. He excused the imprisonment of the counsellors to have been against his mind, forced upon him by his unruly company. He protested he never intended in his heart any hurt to her majesty's person; that he did desire to secure his access to her, for which purpose he thought to pray the help of the city, and that he

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did not arm his men in warlike sort, nor struck up drum, nor lik.

The defence of the late earl of Southampton to his part in the plot, and consultation at Drury-house, was: That it was a matter debated, but not resolved nor concluded; and that the action which was executed, was not the action which was consulted upon. And for the open action in the city, he concurred with Essex, with protestation of the clearness of his mind for any hurt to the queen's person: and that it was but his affection to my lord of Essex that had drawn him into the cause. This was the substance and best of both their defences. Unto which the reply was:

Defence. *To the point, that the late earl of Essex was not at the consultation at Drury-house:*

*Reply.* It was replied, that it was proved by all the witnesses, that that consultation was held by his special appointment and direction, and that both the list of the names and the principal articles were of his own hand-writing. And whereas he said, they could not be shewed extant under his hand; it was proved by the confession of my lord of Rutland, and the lord Sandys, that he had provided for that himself. For after he returned out of the city to his own house, he burned divers papers which he had in a cabinet, because, as himself said, they should tell no tales.

Defence. *To the point which Southampton alleged That the consultation at Drury-house, upon the list and articles in writing, was not executed:*

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*Reply.* It was replied, that both that consultation in that manner held, if none other act had followed, was treason: and that the rebellion following in the city, was not a desisting from the other plot, but an inducement and pursuance of it; their meaning being plain on all parts, that after they had gotten the aid of the city, they would have gone and possessed the court.

Defence. *To the point, that it was a truth that Essex should have been assailed by his private enemies:*

*Reply.* First, he was required to deliver who it was that gave him the advertisement of it; because otherwise it must light upon himself, and be thought his own invention: whereunto he said, that he would name no man that day.

Then it was shewed how improbable it was, considering that my lord Cobham and sir Walter Raleigh were men whose estates were better settled and established than to overthrow their fortunes by such a crime.

Besides, it was shewed how the tale did not hang together, but varied in itself, as the tale of the two judges did, when one said, under the mulberry-tree, and another said, under the fig-tree. So sometimes it was, that he should have been murdered in his bed, and sometimes upon the water, and sometimes it should have been performed by Jesuits some days before.

Thirdly, it was asked what reference the going into the city for succour against any his private enemies had to the imprisoning of the lord Keeper, and

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the lord Chief Justice, persons that he pretended to love and respect; and the earl of Worcester his kinsman, and Master Comptroller his uncle, and the publishing to the people, that the realm should have been sold to the Spaniard.

And lastly, it was said, that these were the ancient footsteps of former traitors, to make their quarrel as against their private enemies, because God unto lawful kings did ever impart such beams of his own glory, as traitors could not look straight upon them, but ever turned their pretences against some about them; and that this action of his resembled the action of Pisistratus of Athens, that proceeded so far in this kind of fiction and dissimulation, as he lanced his own body, and came hurt and wounded before the people, as having been assailed by his private enemies; and by colour thereof obtained a guard about his person, by help of whom he after usurped upon the state.

Defence. *To the point, that he heard it reported Mr. Secretary should say, That the Infanta's title to the crown, after her majesty, was as good as any other:*

*Reply.* Upon this his allegation, Mr. Secretary standing out of sight in a private place, only to hear, being much moved with so false and foul an accusation, came suddenly forth, and made humble request to the lord Steward, that he might have the favour to answer for himself. Which being granted him, in respect of the place he carried, after a bitter contestation on his part with the earl, and a serious

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protestation of his alienation of heart from the Spanish nation in any such condition, he still urged the earl to name the reporter, that all the circumstances might be known. But the earl still warily avoiding it, Mr. Secretary replied, That seeing he would allege no author, it ought to be reputed his own fiction. Whereupon the earl of Essex said, Though his own conscience was a sufficient testimony to himself that he had not invented any untruth, yet he would affirm thus much for the world's farther satisfaction in that behalf, that the earl of Southampton also had heard so much reported of Mr. Secretary; but said still that he, for his part, would name nobody. Whereupon Mr. Secretary adjured the earl of Southampton, by all former friendship, which had been indeed very great between them, that he would declare the person: which he did presently, and said it was Mr. Comptroller. At which speech Mr. Secretary straight took hold and said, That he was glad to hear him named of all others; for howsoever some malicious person might peradventure have been content to give credit to so injurious a conceit of him, especially such as were against the peace wherein he was employed, and for which the earl of Essex had ever hated him, being ever desirous to keep an army on his own dependency, yet he did think no man of any understanding would believe that he could be so senseless as to pick out the earl of Essex his uncle to lay open to him his affection to that nation, in a matter of so

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odious and pernicious consequence; and so did very humbly crave it at the hands of the lord Steward, and all the peers, that Mr. Comptroller might be sent for, to make good his accusation.

Thereupon the lord Steward sent a serjeant at arms for Mr. Comptroller, who presently came thither, and did freely and sincerely deliver, that he had only said, though he knew not well to whom, that Mr. Secretary and he walking in the garden at court one morning about two years since, and talking casually of foreign things, Mr. Secretary told him, that one Doleman had maintained in a book, not long since printed, that the Infanta of Spain had a good title to the crown of England: which was all, as Mr. Comptroller said, that ever he heard Mr. Secretary speak of that matter. And so the weak foundation of that scandal being quickly discerned, that matter ended; all that could be proved being no other, than that Mr. Comptroller had told another, who had told the earl of Essex, that Mr. Secretary said to him that such a book said so; which every man could say that hath read it, and no man better knew than the earl himself, to whom it was dedicated.

Defence. *To the point of both their protestations, that they intended no hurt to her majesty's person*:

*Reply.* First, the judges delivered their opinions for matter in law upon two points: the one, that in case where a subject attempteth to put himself into such strength as the king shall not be able to resist him, and to force and compel the king to govern

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otherwise than according to his own royal authority and direction, it is manifest rebellion. The other, that in every rebellion the law intendeth as a consequent, the compassing the death and deprivation of the king, as foreseeing that the rebel will never suffer that king to live or reign, which might punish or take revenge of his treason and rebellion. And it was inforced by the queen's counsel, that this is not only the wisdom of the laws of the realm which so defineth of it, but it is also the censure of foreign laws, the conclusion of common reason, which is the ground of all laws, and the demonstrative assertion of experience, which is the warranty of all reason. For first, the civil law maketh this judgment, that treason is nothing else but "crimen læsæ majestatis," or "diminutæ majestatis," making every offence which abridgeth or hurteth the power and authority of the prince, as an insult or invading of the crown, and extorting the imperial sceptre. And for common reason, it is not possible that a subject should once come to that height as to give law to his sovereign, but what with insolency of the change, and what with terror of his own guiltiness, he will never permit the king, if he can choose, to recover authority; nor, for doubt of that, to continue alive. And lastly, for experience, it is confirmed by all stories and examples, that the subject never obtained a superiority and command over the king, but there followed soon after the deposing and putting of the king to death, as appeareth in our own chronicles, in two notable particulars of two unfortunate kings:

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the one of Edward the second, who when he kept himself close for danger, was summoned by proclamation to come and take upon him the government of the realm: but as soon as he presented himself was made prisoner, and soon after forced to resign, and in the end tragically murdered in Berkley castle. And the other of king Richard the second, who though the duke of Hereford, after king Henry the fourth, presented himself before him with three humble reverences, yet in the end was deposed and put to death.

Defence. *To the point of not arming his men otherwise than with pistols, rapiers, and daggers, it was replied:*

*Reply.* That that course was held upon cunning, the better to insinuate himself into the favour of the city, as coming like a friend with an All hail, or kiss, and not as an enemy, making full reckoning that the city would arm him, and arm with him; and that he took the pattern of his action from the day of the barricadoes at Paris, where the duke of Guise entering the city but with eight gentlemen, prevailing with the city of Paris to take his part, as my lord of Essex, thanks be to God, failed of the city of London, made the king, whom he thought likewise to have surprised, to forsake the town, and withdraw himself into other places, for his farther safety. And it was also urged against him out of the confession of the earl of Rutland and others, that he cried out to the citizens, "That they did him hurt and no good, to come without weapons;" and provoked



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them to arm: and finding they would not be moved to arm with him, sought to arm his own troops.

This, point by point, was the effect of the reply. Upon all which evidence both the earls were found guilty of treason by all the several voices of every one of the peers, and so received judgment.

*The names of the peers that passed upon the trial of the two earls.*

| | |
|---|---|
| Earl of Oxford. | Lord Cobham. |
| Earl of Shrewsbury. | Lord Stafford. |
| Earl of Derby. | Lord Gray. |
| Earl of Cumberland. | Lord Lumley. |
| Earl of Worcester. | Lord Windsor. |
| Earl of Sussex. | Lord Rich. |
| Earl of Hertford. | Lord Darcy de Chichey. |
| Earl of Lincoln. | Lord Chandos. |
| Earl of Nottingham. | Lord Hunsdon. |
| Lord Viscount Bindon. | Lord St. John de Bletso. |
| | Lord Compton. |
| Lord De la Ware. | Lord Burghley. |
| Lord Morley. | Lord Howard of Walden. |

*The names of the judges that assisted the court.*

| | |
|---|---|
| Lord Chief Justice. | Justice Fenner. |
| Lord Chief Justice of the Common Pleas. | Justice Walmsly. |
| | Baron Clerke. |
| Lord Chief Baron. | Justice Kingsmill. |
| Justice Gawdy. | |

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Some particularities of that which passed after the arraignment of the late earls, and at the time of the suffering of the earl of Essex.

But the earl of Essex, finding that the consultation at Drury-house, and the secret plots of his premeditated and prepensed treasons were come to light, contrary to his expectation, was touched, even at his parting from the bar, with a kind of remorse; especially because he had carried the manner of his answer, rather in a spirit of ostentation and glory, than with humility and penitence: and brake out in the hall, while the lords were in conference, into these words; "That seeing things were thus carried, he would ere it be long say more than yet was known." Which good motion of his mind being, after his coming back to the Tower, first cherished by M. D. of Norwich, but after wrought on by the religious and effectual persuasions and exhortations of Mr. Abdy Ashton his chaplain, the man whom he made suit by name to have with him for his soul's health, as one that of late time he had been most used unto, and found most comfort of, comparing it, when he made the request, to the case of a patient, that in his extremity would be desirous to have that physician that was best acquainted with his body; he sent word the next day, to desire to speak with some of the principal counsellors, with whom he desired also that particularly Mr. Secretary might come for one. Upon which his request, first the lord Admiral and Mr. Secretary, and after,

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wards at two several times the lord Keeper of the great seal, the lord High Treasurer, the lord High Admiral, and Mr. Secretary repaired unto him: before whom, after he had asked the lord Keeper forgiveness, for restraining him in his house, and Mr. Secretary for having wronged him at the bar, concerning the matter of the Infanta, with signification of his earnest desire to be reconciled to them, which was accepted with all Christian charity and humanity; he proceeded to accuse heavily most of his confederates for carrying malicious minds to the state, and vehemently charged Cuffe his man to his own face, to have been a principal instigator of him in his treasons; and then disclosed how far Sir Henry Neville, her majesty's late ambassador, was privy to all the conspiracy; of whose name till then there had not been so much as any suspicion. And farther, at the lords' first coming to him, not sticking to confess that he knew her majesty could not be safe while he lived, did very earnestly desire this favour of the queen, that he might die as privately as might be.

And the morning before his execution, there being sent unto him, for his better preparation, Mr. Doctor Mountford, and Mr. Doctor Barlow, to join with Mr. Abdy Ashton his chaplain, he did in many words thank God that he had given him a deeper insight into his offence, being sorry he had so stood upon his justification at his arraignment: since which time, he said, he was become a new man, and heartily thanked God also that his course was by

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God's providence prevented. For, if his project had taken effect, " God knoweth," said he, " what harm it had wrought in the realm."

He did also humbly thank her majesty, that he should die in so private a manner, for he suffered in the Tower-yard, and not upon the hill, by his own special suit, lest the acclamation of the people, for those were his own words, might be a temptation to him: adding, that all popularity and trust in man was vain, the experience whereof himself had felt: and acknowledged farther unto them, that he was justly and worthily spewed out, for that was also his own word, of the realm, and that the nature of his offence was like a leprosy that had infected far and near. And so likewise at the public place of his suffering, he did use vehement detestation of his offence, desiring God to forgive him his great, his bloody, his crying, and his infectious sin: and so died very penitently, but yet with great conflict, as it should seem, for his sins. For he never mentioned, nor remembered there, wife, children, or friend, nor took particular leave of any that were present, but wholly abstracted and sequestered himself to the state of his conscience, and prayer.

The effect of that which passed at the arraignments of Sir CHRISTOPHER BLUNT, Sir CHARLES DAVERS, Sir JOHN DAVIS, Sir GILLY MERICK, and HENRY CUFFE.

THE fifth of March, by a very honourable commission of Oyer and Terminer, directed to the lord

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High Admiral, the lord Chamberlain, Mr. Secretary, the lord Chief Justice of England, Mr. Chancellor of the exchequer, Mr. Secretary Herbert, with divers of the judges, the commissioners sitting in the court of the Queen's Bench, there were arraigned and tried by a jury both of aldermen of London, and other gentlemen of good credit and sort, Sir Christopher Blunt, Sir Charles Davers, Sir John Davis, Sir Gilly Merick, and Henry Cuffe. The three first whereof, before they pleaded, asked this question of the judges: Whether they might not confess the indictment in part, and plead not guilty to it in the other part? But being resolved by the judges, that their pleading must be general; they pleaded Not guilty, as did likewise the other two, without any such question asked. The reason of that question was, as they confessed, in respect of the clause laid in the indictment; That they intended and compassed the death and destruction of the queen's majesty: unto whose person, although they confessed at the bar, as they had done in their examinations, that their meaning was to come to her in such strength, as they should not be resisted, and to require of her divers conditions and alterations of government, such as in their confessions are expressed, nevertheless they protested, they intended no personal harm to herself. Whereupon as at the arraignment of the two earls, so then again the judges delivered the rule of the law; that the wisdom and foresight of the laws of this land maketh this judgment. That the subject that rebelleth or riseth in forcible manner to over-rule the

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royal will and power of the king, intendeth to deprive the king both of crown and life: and that the law judgeth not of the fact by the intent, but of the intent by the fact. And the queen's counsel did again inforce that point, setting forth that it was no mystery or quiddity of the common law, but it was a conclusion infallible of reason and experience; for that the crown was not a ceremony or garland, but consisted of pre-eminence and power.

And therefore, when the subject will take upon him to give law to the king, and to make the power sovereign and commanding to become subject and commanded; such subject layeth hold of the crown, and taketh the sword out of the king's hands. And that the crown was fastened so close upon the king's head, that it cannot be pulled off, but that head, and life, and all will follow; as all examples, both in foreign stories and here at home, do make manifest. And therefore, when their words did protest one thing, and their deeds did testify another, they were but like the precedent of the protestation used by Manlius the lieutenant of Cataline, that conspired against the state of Rome, who began his letter to the senate with these words: "Deos hominesque testor, patres conscripti, nos nihil aliud, &c."

And it was said farther, that admitting their protestations were so far true, that they had not at that time in their minds a formed and distinct cogitation to have destroyed the queen's person; yet nothing was more variable and mutable than the mind of man, and specially "Honores mutant mores":

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when they were once aloft, and had the queen in their hands, and were peers in my lord of Essex his parliament, who could promise of what mind they would then be? especially when my lord of Essex at his arraignment had made defence of his first action of imprisoning the privy counsellors, by pretence that he was inforced to it by his unruly company. So that if themselves should not have had, or would not seem to have had, that extreme and devilish wickedness of mind, as to lay violent hands upon the queen's sacred person; yet, what must be done to satisfy the multitude and secure their party, must be then the question: wherein the example was remembered of Richard the third, who, though he were king in possession, and the rightful inheritors but infants, could never sleep quiet in his bed, till they were made away. Much less would a Catilinary knot and combination of rebels, that did rise without so much as the fume of a title, ever endure, that a queen that had been their sovereign, and had reigned so many years in such renown and policy, should be longer alive than made for their own turn. And much speech was used to the same end. So that in the end all those three at the bar said, that now they were informed, and that they descended into a deeper consideration of the matter, they were sorry they had not confessed the indictment. And sir Christopher Blunt, at the time of his suffering, discharged his conscience in plain terms, and said publicly before all the people, that he saw plainly with himself, that if they could not have ob-

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tained all that they would, they must have drawn blood even from the queen herself.

The evidence given in against them three, was principally their own confessions, charging every one himself, and the other, and the rest of the evidence used at the arraignment of the late earls, and mentioned before: save that, because it was perceived, that that part of the charge would take no labour nor time, being plain matter and confessed, and because some touch had been given, in the proclamation, of the treasons of Ireland, and chiefly because Sir Christopher Blunt was marshal of the army in Ireland, and most inward with my lord in all his proceedings there; and not so only, but farther in the confession of Thomas Lee it was precisely contained, that he knew the earl of Essex and Tyrone, and Blunt the marshal, to be all one, and to run one course; it was thought fit to open some part of the treasons of Ireland, such as were then known. Which very happily gave the occasion for Blunt to make that discovery of the purpose to have invaded the realm with the army of Ireland: which he then offered, and afterwards uttered, and in the end sealed with his blood, as is hereafter set down.

Against Cuffe was given in evidence, both Sir Charles Davers's confession, who charged him, when there was any debating of the several enterprises which they should undertake, that he did ever bind firmly and resolutely for the court: and the accusation under the earl's hand, avouched by him to his face, that he was a principal instigator of him in his

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treasons: but especially a full declaration of Sir Henry Neville's, which describeth and planteth forth the whole manner of his practising with him.

The fellow, after he had made some introduction by an artificial and continued speech, and some time spent in sophistical arguments, descended to these two answers: the one, for his being within Essex-house that day, the day of the rebellion, they might as well charge a lion within a grate with treason, as him; and for the consultation at Drury-house, it was no more treason than the child in the mother's belly is a child. But it was replied, that for his being in the house, it was not compulsory, and that there was a distribution in the action, of some to make good the house, and some to enter the city, and the one part held correspondent to the other, and that in treasons there were no accessaries, but all principals.

And for the consultation at Drury-house, it was a perfect treason in itself, because the compassing of the king's destruction, which by judgment of law was concluded and implied in that consultation, was treason in the very thought and cogitation, so as that thought be proved by an overt act: and that the same consultation and debating thereupon was an overt act, though it had not been upon a list of names, and articles in writing, much more being upon matter in writing.

And again: the going into the city was a pursuance and inducement of the enterprise to possess the court, and not a desisting or departure from it.

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And lastly, it was ruled by the judges for law, That if many do conspire to execute treason against the prince in one manner, and some of them do execute it in another manner, yet their act, though differing in the manner, is the act of all them that conspire, by reason of the general malice of the intent.

Against Sir Gilly Merick, the evidence that was given, charged him chiefly with the matter of the open rebellion, that he was as captain or commander over the house, and took upon him charge to keep it, and make it good as a place of retreat for those which issued into the city, and fortifying and barricading the same house, and making provision of muskets, powder, pellets, and other munition and weapons for the holding and defending of it, and as a busy, forward, and noted actor in that defence and resistance, which was made against the queen's forces brought against it by her majesty's lieutenant.

And farther to prove him privy to the plot, it was given in evidence, that some few days before the rebellion, with great heat and violence he had displaced certain gentlemen lodged in an house fast by Essex-house, and there planted divers of my lord's followers and complices, all such as went forth with him in the action of rebellion.

That the afternoon before the rebellion, Merick, with a great company of others that afterwards were all in the action, had procured to be played before them the play of deposing king Richard the second.

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Neither was it casual, but a play bespoken by Merick.

And not so only, but when it was told him by one of the players, that the play was old, and they should have loss in playing it, because few would come to it: there were forty shillings extraordinary given to play it, and so thereupon played it was.

So earnest he was to satisfy his eyes with the sight of that tragedy, which he thought soon after his lordship should bring from the stage to the state, but that God turned it upon their own heads.

*The speeches of Sir Christopher Blunt at his execution, are set down as near as they could be remembered, after the rest of the confessions and evidences.*

*Here follow the voluntary confessions themselves, such as were given in evidence at both the several arraignments, taken forth word for word out of the originals: whereby it may appear how God brought matters to light, at several times, and in several parts, all concurring in substance: and with them other declarations and parts of evidence.*

The confession of THOMAS LEE, taken the 11th of February 1600, before Sir JOHN PEYTON, lieutenant of the Tower; ROGER WILBRAHAM, master of the Requests; Sir ANTHONY SAINTLEGER, master of the Rolls in Ireland; and THOMAS FLEMING, her majesty's Solicitor general.

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This examinate saith, that Tyrone sent a message to this examinate by James Knowd, whom this examinate by the marshal's warrant in writing had sent to Tyrone before himself went to Tyrone, that if the earl of Essex would follow his plot, he would make him the greatest man that ever was in England, and that, when Essex and Tyrone should have conference together, for his assurance unto the earl of Essex, Tyrone would deliver his eldest son in pledge to the earl. And with this message this examinate made the Earl of Essex acquainted before his coming to this examinate's house, at that time when this examinate was sent to Tyrone.

This examinate saith, he knew that Essex, Tyrone, and the marshal Sir Christopher Blunt, were all one, and held all one course.

THOMAS LEE.

Exam. per JOHN PEYTON,
ROGER WILBRAHAM,
ANTHONY SAINTLEGER,
THOMAS FLEMING.

The declaration of Sir WILLIAM WARREN,
9 Octobris, 1599.

THE said Sir William came to Armagh the last Friday, being the twenty-eight of September: from thence he sent a messenger in the night to Tyrone to Dungannon, signifying his coming to Armagh, as aforesaid, and that the next morning he would meet Tyrone at the fort of Blackwater: where accordingly the said Tyrone met with him; and after other

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speeches, by farther discourse the said Tyrone told the said Sir William, and delivered it with an oath, that within these two months he should see the greatest alteration, and the strangest, that he the said Sir William could imagine, or ever saw in his life: and said, that he hoped, before it was long, that he the said Tyrone should have a good share in England: which speeches of the alteration Tyrone reiterated two or three several times.

WILLIAM WARREN.

Certified from the conncil of Ireland to the lords of the council here.

The declaration of THOMAS WOOD, 20 Januarii, 1599, taken before the lord BUCKHURST, lord High Treasurer; the earl of NOTTINGHAM, lord High Admiral; Sir ROBERT CECIL, principal Secretary; and Sir J. FORTESCUE, Chancellor of the Exchequer.

The said Wood said, that happening to be with the lord Fitzmorris baron of Licksnaw, at his house at Licksnaw, between Michaelmas and Alhallowtide last, the said baron walking abroad with the said Wood, asked of him what force the earl of Essex was of in England; he answered, he could not tell, but said he was well beloved of the commonalty. Then said the baron, that the earl was gone for England, and had discharged many of the companies of Ireland, and that it was agreed that he should be king of England, and Onele to be viceroy of Ireland; and whensoever he should have occasion, and would send

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for them, Onele should send him eight thousand men out of Ireland. The said Wood asked the baron, how he knew that? He answered, that the earl of Desmond had written to him so much.

THOMAS WOOD.

Confessed in the presence of THOMAS BUCKHURST,
NOTTINGHAM,
ROBERT CECIL,
JOHN FORTESCUE.

The confession of JAMES KNOWD, taken the 16th of February 1600, before Sir ANTHONY SAINTLEGER, master of the Rolls in Ireland, and ROGER WILBRAHAM, master of the Requests.

OWNEY MAC RORY having secret intelligence of the friendship between the earl of Essex and Tyrone, wrote to Tyrone, desiring him to certify him thereof, whereby he might frame his course accordingly, and not do any thing contrary to their agreement: which letter myself did write by Owney's appointment, for then I was in credit with him; in which letter he also desired Tyrone to send him some munition. The letter, with instructions to that effect, was in my presence delivered to one Turlagh mac Davy o Kelly, a man of secrecy, sufficiency, and trust with Owney; and he carried it to Tyrone: before whose return Owney grew suspicious of me, because I sometimes belonged to Mr. Bowen, and therefore they would not trust me, so as I could not see the answer: but yet I heard by

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many of their secret council, that the effect thereof was, That the earl of Essex should be king of England, and Tyrone of Ireland.

Afterwards I met with Turlagh mac Davy, the messenger aforesaid, and asked him whether he brought an answer of the letter from Tyrone. He said he did, and delivered it to Owney. And then I asked him what he thought of the wars. He told me he had good hope the last year, and had none this year: his reason was, as he said, that the earl of Essex was to take their part, and they should aid him towards the conquest of England; and now they were hindered thereof by means of his apprehension.

I, dwelling with the tanist of the country, my mother's cousin german, heard him speak sundry times, that now the earl of Essex had gotten one of the swords, he would never forego his government until he became king of England, which was near at hand.

I saw a letter which the earl of Essex writ to Owney, to this effect; That if Owney came to him, he would speak with him about that, which if he would follow, should be happy for him and his country.

JAMES KNOWD.

Exam. per ANTHONY SAINTLEGER,
ROGER WILBRAHAM.

The declaration of DAVID HETHRINGTON, an ancient captain and servitor in Ireland, 6 Janurary, 1599, taken before the lord BUCKHURST, lord High Trea-

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surer; the earl of NOTTINGHAM, lord High Admiral; Sir ROBERT CECIL, principal Secretary; and Sir JOHN FORTESCUE, Chancellor of the Exchequer.

He, the said David Hethrington, riding into the edge of the county of Kildare, about the end of the first cessation, fortuned to meet with one James Occurren, one of the horsemen of Master Bowen provost marshal of Lemster, who told him, that the said James Occurren meeting lately with a principal follower of Owney mac Rory, chief of the Moores, Owney's man asked him what news he heard of the earl of Essex? To which James Occurren answered, that he was gone for England: whereunto he said, Nay, if you can tell me no news, I can tell you some; the earl of Essex is now in trouble for us, for that he would do no service upon us; which he never meant to do, for he is ours, and we are his.

DAVID HETHRINGTON.

Confessed in the presence of THO. BUCKHURST,
NOTTINGHAM,
RO. CECIL,
JO. FORTESCUE.

The first confession of Sir FERDINANDO GORGE, knight, the 16th of February, 1600, taken before Sir THOMAS EGERTON, lord keeper of the great seal; the lord BUCKHURST, lord High Treasurer; the earl of NOTTINGHAM, lord High Admiral; and Sir ROBERT CECIL, principal Secretary.



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He saith, the earl of Essex wrote a letter to him in January, complaining of his misfortune: that he desired his company, and desired his repair up to him by the second of February; that he came to town on Saturday seven-night before the earl's insurrection, and that the same night late he visited the earl: who, after compliments, told him that he stood on his guard, and resolved not to hazard any more commandments or restraints; that he desired him to rest him that night, and to repair unto him again, but in such sort as it might not be noted.

That he had been with the earl two or three times that week; and on Saturday, being the seventh of February, the earl told him that he had been sent for by the lords, and refused to come: delivering farther, that he resolved to defend himself from any more restraint.

He farther saith, that it was in question the same Saturday night, to have stirred in the night, and to have attempted the court. But being demanded, whether the earl could have had sufficient company to have done any thing in the night: he answered, that all the earl's company were ready at one hour's warning, and had been so before, in respect that he had meant long before to stand upon his guard.

That it was resolved to have the court first attempted; that the earl had three hundred gentlemen to do it; but that he the said Ferdinando Gorge was a violent dissuader of him from that purpose, and the

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earl most confident in the party of London, which he meant, upon a later dispute, first to assure; and that he was also assured of a party in Wales, but meant not to use them, until he had been possessed of the court.

That the earl and Sir Christopher Blunt understanding that Sir Walter Raleigh had sent to speak with him in the morning, the said Sir Christopher Blunt persuaded him, either to surprise Sir Walter Raleigh, or to kill him. Which when he utterly refused, Sir Christopher Blunt sent four shot after him in a boat.

That at the going out of Essex-house gate, many cried out, To the court, to the court. But my lord of Essex turned him about towards London.

That he meant, after possession of the court, to call a parliament, and therein to proceed as cause should require.

At that time of the consultation on Saturday night, my lord was demanded, what assurance he had of those he made account to be his friends in the city? Whereunto he replied, that there was no question to be made of that, for one, amongst the rest, that was presently in one of the greatest commands amongst them, held himself to be interested in the cause, for so he phrased it, and was colonel of a thousand men, which were ready at all times; besides others that he held himself as assured of, as of him, and able to make as great numbers. Some of them had at that instant, as he reported to us, sent unto him, taking notice of as much as he made us to know of the pur-

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pose intended to have intrapped him, and made request to know his pleasure.

FERD. GORGE.

Exam. per THO. EGERTON, C. S.
THOS. BUCKHURST,
NOTTINGHAM.
RO. CECIL.

The second confession of Sir FFRDINANDO GORGE, the 18th of February, 1600, all written of his own hand; and acknowledged in the presence of Sir THOMAS EGERTON, lord Keeper of the great seal; the lord BUCKHURST, lord High Treasurer; the earl of NOTTINGHAM, lord High Admiral; and Sir ROBERT CECIL, principal Secretary.

On Tuesday before the insurrection, as I remember, I was sent unto by my lord of Essex, praying me to meet my lord of Southampton, Sir Charles Davers, Sir John Davis, and other his friends at Drury-house; where I should see a schedule of his friends' names, and projects to be disputed upon. Whither I came accordingly, and found the foresaid earl, Sir Charles Davers, Sir John Davis, and one Mr. Littleton. The names were shewed and numbered to be six score; earls, barons, knights, and gentlemen. The projects were these, whether to attempt the court, or the Tower, or to stir his friends in London first, or whether both the court and Tower at an instant? I disliked that counsel. My reasons were that I alleged to them, first, to attempt both with those numbers, was not to be thought on, because that was not sufficient; and therefore advised them

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to think of something else. Then they would needs resolve to attempt the court, and withal desired mine opinion. But I prayed them first to set down the manner how it might be done. Then Sir John Davis took ink and paper, and assigned to divers principal men their several places; some to keep the gate, some to be in the hall, some to be in the presence, some in the lobby, some in the guard-chamber, others to come in with my lord himself, who should have had the passage given him to the privy-chamber, where he was to have presented himself to her majesty.

FERD. GORGE.

Knowledged in the presence of THO. EGERTON, C. S.
THO. BUCKHURST,
NOTTINGHAM,
RO. CECIL.

The confession of Sir JOHN DAVIS, taken the 18th of February, 1600, before the earl of NOTTINGHAM, lord High Admiral; Sir ROBERT CECIL, principal Secretary; and JOHN HERBERT, second Secretary of State.

SIR JOHN DAVIS being demanded, how long before my lord Essex' tumult he knew of such his purpose?

He answers, that he knew not directly of any meaning my lord had, until the Sunday seven-night before, or thereabout.

Being demanded, what he knew? Then he an-

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swered, that my lord consulted to possess himself of the court, at such convenient time when he might find least opposition. For executing of which enterprises, and of other affairs, he appointed my lord of Southampton, Sir Charles Davers, Sir Ferdinando Gorge, and himself, to meet at Drury-house, and there to consider of the same, and such other projects as his lordship delivered them: and principally, for surprising of the court, and for the taking of the Tower of London. About which business they had two meetings, which were five or six days before the insurrection.

He farther saith, that Sir Christopher Blunt was not at this consultation, but that he stayed and advised with my lord himself about other things to him unknown: for that my lord trusted several men in several businesses, and not all together.

Being demanded, what was resolved in the opinions of these four before named? He saith, that Sir Charles Davers was appointed to the presence-chamber, and himself to the hall: and that my lord was to determine himself, who should have guarded the court-gate and the water-gate. And that Sir Charles Davers, upon a signal or a watch-word, should have come out of the presence into the guard-chamber; and then some out of the hall to have met him, and so have stept between the guard and their halberds; of which guard they hoped to have found but a dozen, or some such small number.

Being asked, whether he heard that such as my lord misliked should have received any violence?

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He saith, that my lord avowed the contrary, and that my lord said, he would call them to an honourable trial, and not use the sword.

Being demanded, whether my lord thought his enemies to be Spanish, "bona fide," or no? He saith, that he never heard any such speech; and if my lord used any such, it came into his head on the sudden.

Being demanded, what party my lord had in London? He saith, that the sheriff Smith was his hope, as he thinketh.

Being demanded, whether my lord promised liberty of catholic religion? He saith, that Sir Christopher Blunt did give hope of it.

JOHN DAVIS.

Exam. per NOTTINGHAM,
RO. CECIL,
J. HERBERT.

The first confession of Sir CHARLES DAVERS, taken the 18th of February, anno 1600, before Sir THOMAS EGERTON, lord Keeper of the great seal; the lord BUCKHURST, lord High Treasurer; the earl of NOTTINGHAM, the lord High Admiral; lord HUNSDON, lord Chamberlain; and Sir ROBERT CECIL, principal Secretary.

He confesseth, that before Christmas the earl of Essex had bethought himself, how he might secure his access unto the queen in such sort as he might not be resisted; but no resolution determinately

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taken, until the coming up of this examinate a little after Christmas.

And then he doth confess, that the resolution was taken to possess himself of the court; which resolution was taken agreeable to certain articles, which the earl of Essex did send to the earl of Southampton, this examinate, Sir Ferdinando Gorge, and Sir John Davis, written with the earl's own hand. To which consultation, being held at Drury-house, some four or five days before Sunday, that was the eighth of February, Littleton came in towards the end.

The points which the earl of Essex projected under his hand were these:

First, whether it were fit to take the Tower of London. The reason whereof was this: that after the court was possessed, it was necessary to give reputation to the action, by having such a place to bridle the city, if there should be any mislike of their possessing the court.

To the possessing of the court, these circumstances were considered:

First, the earl of Essex should have assembled all the noblemen and gentlemen of quality on his party; out of which number he should have chosen so many as should have possessed all the places of the court, where there might have been any likelihood of resistance: which being done, the earl of Essex, with divers noblemen, should have presented himself to the queen.

The manner how it should have been executed, was in this sort: Sir Christopher Blunt should have

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had charge of the outer gate, as he thinketh. Sir Charles Davers, this examinate, with his company, should have made good the presence, and should have seized upon the halberds of the guard. Sir John Davis should have taken charge of the hall. All this heing set, upon a signal given, the earl should have come into the court with his company.

Being asked, what they would have done after? he saith, They would have sent to have satisfied the city, and have called a parliament.

These were the resolutions set down by the earl of Essex of his own hand, after divers consultations.

He saith, Cuffe was ever of opinion, that the earl of Essex should come in this sort to the court.

CHARLES DAVERS.

Exam. per THO. EGERTON, C. S.
THO. BUCKHURST,
NOTTINGHAM,
G. HUNSDON,
RO. CECIL.

The second confession of Sir CHARLES DAVERS, taken the same day, and set down upon farther calling himself to remembrance, under his own hand, before Sir THO. EGERTON, lord Keeper of the great seal; lord BUCKHURST, lord High Treasurer; the earl of NOTTINGMAM, lord High Admiral; Sir ROBERT CECIL, principal Secretary.

SOME points of the articles which my lord of

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Essex sent unto Drury-house, as near as I can remember, were these; whether both the court and the Tower should be both attempted at one time? if both, what numbers should be thought requisite for either? if the court alone, what places should be first possessed? by what persons?

And for those which were not to come into the court beforehand, where and in what sort they might assemble themselves, with least suspicion, to come in with my lord?

Whether it were not fit for my lord, and some of the principal persons, to be armed with privy coats?

CHARLES DAVERS.

Knowledged in the presence of THO. EGERTON, C. S.
THO. BUCKHURST,
NOTTINGHAM,
ROBERT CECIL.

The first confession of Sir CHRISTOPHER BLUNT, examined the 18th of February 1600, befor Jo. HERBERT, second Secretary of estate, and in the presence of NIC. KEMPE, counsellor at law, WILLIAM WAIMARKE, WILLIAM MARTIN, ROBERT ANDREWS, citizens, JOHN TREVOR, surveyor of the navy, and THOMAS THORNEY, his surgeon.

HE confesseth that the earl of Essex sent Wiseman, about the 20th of January, to visit his wife, with letters of compliment, and to require him to come up unto him to London, to settle his estate

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according as he had written unto him before some few days.

Being demanded, to what end they went to the city, to join with such strength as they hoped for there? he confesseth it was to secure the earl of Essex his life, against such forces as should be sent against him. And being asked, What, against the queen's forces? he answered, That must have been judged afterwards.

But being farther asked, Whether he did advise to come unto the court over night? He saith, No; for Sir Ferdinando Gorge did assure, that the alarm was taken of it at the court, and the guards doubled.

Being asked, whether he thought any prince could have endured to have any subject make the city his mediator? or to gather force to speak for him? He saith, he is not read in stories of former times; but he doth not know but that in former times subjects have used force for their mediation.

Being asked, what should have been done by any of the persons that should have been removed from the queen? He answered, that he never found my lord disposed to shed blood; but that any that should have been found, should have had indifferent trial.

Being asked upon his conscience, whether the earl of Essex did not give him comfort, that if he came to authority, there should be a toleration for

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religion? He confesseth, he should have been to blame to have denied it.

CHRISTOPHER BLUNT.

This was read unto Sir Christopher Blunt, and afterwards signed by him in the presence of us who are under written:

JO. HERBERT,
NIC. KEMPE,
WIL. WAIMARKE,
WIL. MARTIN,
ROB. ANDREWS,
JO. TREVOR,
TH. THORNEY.

The second confession of Sir CHRISTOPHER BLUNT the same day, viz. the 18th of February; taken before Mr. JOHN HERBERT, second Secretary of estate, and subscribed by him in the presence of NICHOLAS KEMPE, counsellor at law, THOMAS THORNEY, his surgeon, and WILLIAM MARTIN, ROBERT ANDREWS, and RANDOLPH BULL, citizens.

SIR CHRISTOPHER BLUNT, after the signing of this confession, being told, that he did not deal plainly, excused himself by his former weakness, putting us in mind that he said once before, that when he was able to speak, he would tell all truth, doth now confess; That four or five days before the earl of Essex did rise, he did set down certain articles to be considered on, which he saw not, until afterward he was made acquainted with them, when

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they had amongst themselves disputed: which were these.

One of them was, whether the Tower of London should be taken?

Another, whether they should not possess the court, and so secure my lord, and other men, to come to the queen?

For the first concerning the Tower, he did not like it; concluding, that he that had the power of the queen, should have that.

He confesseth that upon Saturday night, when Mr. Secretary Herbert had been with the earl, and that he saw some suspicion was taken, he thought it in vain to attempt the court, and persuaded him rather to save himself by flight, than to engage himself farther, and all his company. And so the resolution of the earl grew to go into the city, in hope, as he said before, to find many friends there.

He doth also say, that the earl did usually speak of his purpose to alter the government.

CHRISTOPHER BLUNT.

Exam. per Jo. HERBERT.

Subscribed in the presence of

NIC. KEMPE,
THO. THORNEY,
ROB. ANDREWS,
W. MARTIN,
RANDOLPH BULL.

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## The declaration of the lord Keeper, the earl of Worcester, and the lord Chief Justice of England.

Upon Sunday, being the 8th of February last past, about ten of the clock in the forenoon, the lord Keeper of the great seal, the earl of Worcester, Sir William Knolles, comptroller of her majesty's household, and the lord Chief Justice of England, being commanded by direction from the queen's majesty, did repair to the late earl of Essex his house, and finding the gate shut against them, after a little stay they were let in at the wicket: and as soon as they were within the gate, the wicket was shut upon them, and all their servants kept out.

At their coming thither they found the court full of men assembled together in very tumultuous sort; the earls of Essex, Rutland, and Southampton, and the lord Sandys, Mr. Parker, commonly called lord Montegle, Sir Christopher Blunt, Sir Charles Davers, and many other knights and gentlemen, and other persons unknown, which flocked together about the lord Keeper, &c. And thereupon the lord Keeper told the earl of Essex, that they were sent from her majesty to understand the cause of this their assembly, and to let them know, that if they had any particular cause of grief against any persons whatsoever, it should be heard, and they should have justice.

Hereupon the earl of Essex with a very loud voice declared, That his life was sought, and that he should have been murdered in his bed; that he had been

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perfidiously dealt with; that his hand had been counterfeited, and letters written in his name; and that therefore they were assembled there together to defend their lives; with much other speech to like effect. Hereupon the lord Chief Justice said unto the earl, That if they had any such matter of grief, or if any such matter were attempted or purposed against him, he willed the earl to declare it, assuring him that it should be truly related to her majesty, and that it should be indifferently heard, and justice should be done whomsoever it concerned.

To this the earl of Southampton objected the assault made upon him by the lord Gray. Whereunto the lord Chief Justice said, That in his case justice had been done, and the party imprisoned for it. And hereupon the lord Keeper did eftsoons will the earl of Essex, that whatsoever private matter or offence he had against any person whatsoever, if he would deliver it unto them, they would faithfully and honestly deliver it to the queen's majesty, and doubted not to procure him honourable and equal justice, whomsoever it concerned; requiring him, that if he would not declare it openly, that he would impart it unto them privately, and doubted not but they would satisfy him in it.

Upon this there was a great clamour raised amongst the multitude, crying, "Away, my lord, they abuse you, they betray you, they undo you, you lose time." Whereupon the lord Keeper put on his hat, and said with a loud voice, "My lord, let us speak with you privately, and understand your

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griefs; and I command you all upon your allegiance, to lay down your weapons, and to depart, which you ought all to do, being thus commanded, if you be good subjects, and owe that duty to the queen's majesty which you profess." Whereupon they all brake out into an exceeding loud shout and cry, crying, "All! all! all!"

And whilst the lord Keeper was speaking, and commanding them upon their allegiance, as is before declared, the earl of Essex and the most part of that company did put on their hats, and so the earl of Essex went into the house, and the lord Keeper, &c. followed him, thinking that his purpose had been to speak with them privately, as they had required. And as they were going, some of that disordered company cried, "Kill them." And as they were going into the great chamber, some cried, "Cast the great seal out at the window." Some other cried there, "Kill them;" and some other said, "Nay, let us shop them up."

The lord Keeper did often call to the earl of Essex to speak with them privately, thinking still that his meaning had been so, until the earl brought them into his back chamber, and there gave order to have the farther door of that chamber shut fast. And at his going forth out of that chamber, the lord Keeper pressing again to have spoken with the earl of Essex, the earl said, "My lords, be patient awhile, and stay here, and I will go into London, and take order with the mayor and sheriffs for the city, and will be here again within this half hour;"

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and so departed from the lord Keeper, &c. leaving the lord Keeper, &c. and divers of the gentlemen pensioners in that chamber, guarded by Sir John Davis, Francis Tresham, and Owen Salisbury, with musquet shot, where they continued until Sir Ferdinando Gorge came and delivered them about four of the clock in the afternoon.

In the mean time, we did often require Sir John Davis, and Francis Tresham, to suffer us to depart, or at the least to suffer some one of us to go to the queen's majesty, to inform her where and in what sort we were kept. But they answered, That my lord, meaning the earl of Essex, had commanded that we should not depart before his return, which, they said, would be very shortly.

THOMAS EGERTON, C. S.
EDWARD WORCESTER, JOHN POPHAM.

The examination of ROGER earl of RUTLAND, the 12th of February, 1600, taken before Sir THOMAS EGERTON, lord Keeper of the great seal; the lord BUCKHURST, lord High Treasurer; the earl of NOTTINGHAM, lord High Admiral; Sir ROBERT CECIL, principal Secretary; and Sir Jo. POPHAM, lord Chief Justice of England.

HE saith, that at his coming to Essex-house on Sunday morning last, he found there with the earl of Essex, the lord Sandys, and the lord Chandos, and divers knights and gentlemen. And the earl of Essex told this examinate, that his life was practised to be taken away by the lord Cobham, and Sir Wal-



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ter Raleigh, when he was sent for to the council; and the earl said, that now he meant by the help of his friends to defend himself: and saith, that the detaining of the lord Keeper and the other lords sent to the earl from the queen, was a stratagem of war; and saith, That the earl of Essex told him that London stood for him, and that sheriff Smith had given him intelligence, that he would make as many men to assist him as he could; and farther the earl of Essex said, that he meant to possess himself of the city, the better to enable himself to revenge him on his enemies, the lord Cobham, Sir Robert Cecil, and Sir Walter Raleigh. And this examinate confesseth, That he resolved to live and die with the earl of Essex; and that the earl of Essex did intend to make his forces so strong, that her majesty should not be able to resist him in the revenge of his enemies. And saith, That the earl of Essex was most inward with the earl of Southampton, Sir Christopher Blunt, and others; who have of long time shewed themselves discontented, and have advised the earl of Essex to take other courses, and to stand upon his guard: and saith, That when the earl of Essex was talking with the lord Keeper, and other the lords sent from her majesty, divers said, "My lord, they mean to abuse you, and you lose time." And when the earl came to sheriff Smith's, he desired him to send for the lord Mayor that he might speak with him; and as the earl went in the streets of London, this examinate said to divers of the citizens, that if they would needs come, that it was better for their safety to

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come with weapons in their hands: and saith, That the earl of Essex, at the end of the street where sheriff Smith dwelt, cried out to the citizens, that they did him harm, for that they came naked; and willed them to get them weapons; and the earl of Essex also cried out to the citizens, that the crown of England was offered to be sold to the Infanta: and saith, That the earl burned divers papers that were in a little casket, whereof one was, as the earl said, an history of his troubles: and saith, That when they were assaulted in Essex-house, after their return, they first resolved to have made a sally out; and the earl said, that he was determined to die; and yet in the end they changed their opinion, and yielded: and saith, That the earl of Southampton, Sir Christopher Blunt, and Sir John Davis, advised the earl of Essex, that the lord Keeper and his company should be detained: and this examinate saith, That he heard divers there present cry out, "Kill them, kill them:" and saith, That he thinketh the earl of Essex intended, that after he had possessed himself of the city, he would intreat the lord Keeper and his company to accompany him to the court. He saith, he heard Sir Christopher Blunt say openly, in the presence of the earl of Essex and others, how fearful, and in what several humours they should find them at the court, when they came thither.

RUTLAND.

Exam. per TH. EGERTON, C. S. RO. CECIL,
T. BUCKHURST, JO. POPHAM,
NOTTINGHAM,

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The confession of WILLIAM lord SANDYS, of the parish of Sherborne-Cowdry in the county of Southampton, taken this 16th of February, 1600, before Sir JOHN POPHAM, lord Chief Justice; ROGER WILBRAHAM, master of the Requests; and EDWARD COKE, her majesty's Attorney-general.

HE saith, That he never understood that the earl did mean to stand upon his strength till Sunday in the morning, being the 8th of this instant February: and saith, That in the morning of that day this examinate was sent for by the earl of Essex about six or seven of the clock: and the earl sent for him by his servant Warburton, who was married to a widow in Hampshire. And at his coming to the earl, there were six or seven gentlemen with him, but remembereth not what they were; and next after, of a nobleman, came my lord Chandos, and after him came the earl of Southampton, and presently after the earl of Rutland, and after him Mr. Parker, commonly called the lord Montegle: and saith, That at his coming to the earl of Essex, he complained that it was practised by Sir Walter Raleigh to have murdered him as he should have gone to the lord Treasurer's house with Mr. Secretary Herbert. And saith, that he was present in the court-yard of Essex-house, when the lord Keeper, the earl of Worcester, Sir William Knolles, and the lord Chief Justice, came from the queen's majesty to the earl of Essex; and the lord Chief Justice required the earl of Essex to have some private conference with him; and that if any private wrongs were offered unto him, that they would make true report thereof to her majesty, who,

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no doubt, would reform the same: and saith, That this examinate went with the earl, and the rest of his company, to London to sheriff Smith's, but went not into the house with him, but stayed in the street a while; and being sent for by the earl of Essex, went into the house, and from thence came with him till he came to Ludgate; which place being guarded, and resistance being made, and perceived by the earl of Essex, he said unto his company, "Charge;" and thereupon Sir Christopher Blunt, and others of his company gave the charge, and being repulsed, and this examinate hurt in the leg, the earl retired with this examinate and others to his house called Essex-house. And on his retire, the earl said to this examinate, That if sheriff Smith did not his part, that his part was as far forth as the earl's own; which moved him to think that he trusted to the city. And when the earl was, after his retire, in Essex-house, he took an iron casket, and broke it open, and burnt divers papers in it, whereof there was a book, as he taketh it, and said, as he was burning of them, that they should tell no tales to hurt his friends: and saith, That the earl said, that he had a black bag about his neck that should tell no tales. WILLIAM SANDYS.

Exam. per Jo. POPHAM, ROGER WILBRAHAM,
EDW. COKE.

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The examination of the lord CROMWELL, taken the 7th of March, 1600, by Sir J. POPHAM, lord Chief Justice; CHRIST. YELVERTON, her majesty's serjeant; and FR. BACON, of her majesty's learned counsel.

* AT the sheriff's house this examinate pressed in with the rest, and found the earls shifting themselves in an inner chamber, where he heard my lord of Essex certify the company, that he had been advertised out of Ireland, which he would not now hide from them, that the realm should be delivered over to the hands of the Infanta of Spain, and that he was wished to look to it; farther, that he was to seek redress for injuries; and that he had left at his house for pledges, the lord Keeper, the earl of Worcester, Sir William Knolles, and the lord Chief Justice.

EDW. CROMWELL.

Exam. per Jo. POPHAM, CHR. YELVERTON,
FR. BACON.

* This examination, as appeareth by the date, was taken after Essex's arraignment, but is inserted, to shew how the speech, of the realm to be sold to the Infanta, which at his arraignment he derived from Mr. Secretary, at sheriff Smith's house he said he was advertised out of Ireland: and with this latter concur many other examinations.

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Sir CHRISTOPHER BLUNT, knight, at the time of his arraignment, did openly at the bar desire to speak with the lord Admiral and Mr. Secretary; before whom he made this confession following: which the earl of SOUTHAMPTON confirmed afterwards, and he himself likewise at his death.

HE confesseth, that at the castle of Dublin, in that lodging which was once the earl of Southampton's, the earl of Essex purposing his return into England, advised with the earl of Southampton and himself, of his best manner of going into England for his security, seeing to go he was resolved.

At that time he propounded his going with a competent number of soldiers, to the number of two or three thousand, to have made good his first landing with that force, until he could have drawn unto himself a sufficient strength to have proceeded farther.

From this purpose this examinate did use all forcible persuasions, alleging not only his own ruin, which should follow thereof, and all those which should adhere to him in that action; but urging it to him as a matter most foul, because he was not only held a patron of his country, which by this means he should have destroyed; but also should have laid upon himself an irrevocable blot, having been so deeply bound to her majesty. To which dissuasion the earl of Southampton also inclined.

This design being thus dissuaded by them, then

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they fell to a second consideration: and therein this examinate confesseth, That he rather advised him, if needs he would go, to take with him some competent number of choice men.

He did not name unto him any particular power that would have come to him at his landing, but assured himself that his army would have been quickly increased by all sorts of discontented people.

He did confess before his going, That he was assured that many of the rebels would be advised by him, but named none in particular.

The examination of the earl of SOUTHAMPTON after his arraignment; taken before the earl of NOTTINGHAM, lord High Admiral; Sir ROBERT CECIL, principal Secretary; and Mr. JOHN HERBERT, second Secretary of estate.

SIR CHRISTOPHER BLUNT being hurt, and lying in the castle of Dublin, in a chamber which had been mine, the earl of Essex one day took me thither with him, where being none but we three, he told us, He found it necessary for him to go into England, and thought it fit to carry with him as much of the army as he could conveniently transport, to go on shore with him to Wales, and there to make good his landing with those, till he could send for more; not doubting but his army would so increase in a small time, that he should be able to march to London, and make his conditions as he desired.

To which project I answered, That I held it

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altogether unfit, as well in respect of his conscience to God, and his love to his country, as his duty to his sovereign, of which he, of all men, ought to have greatest regard, seeing her majesty's favours to him had been so extraordinary: wherefore I could never give any consent unto it. Sir Christopher Blunt joined with me in this opinion.

Exam. per NOTTINGHAM, Ro. CECIL,
J. HERBERT.

The speech of Sir CHRISTOPHER BLUNT, at the time of his death, as near as it could be remembered, March 18, 1600.

My lords, and you that be present, although I must confess, that it were better fitting the little time I have to breathe, to bestow the same in asking God forgiveness for my manifold and abominable sins, than to use any other discourse, especially having both an imperfection of speech, and God knows a weak memory, by reason of my late grievous wound: yet to satisfy all those that are present, what course hath been held by me in this late enterprise, because I was said to be an instigator and setter on of the late earl, I will truly, and upon the peril of my soul, speak the truth.

It is true, that the first time that ever I understood of any dangerous discontentment in my lord of Essex, was about three years ago, at Wanstead, upon his coming one day from Greenwich. At that

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time he spake many things unto me, but descended into no particulars, but in general terms.

After which time he never brake with me in any matter tending to the alteration of the state, I protest before God, until he came into Ireland, other than I might conceive, that he was of an ambitious and discontented mind. But when I lay at the castle of Thomas Lee, called Reban, in Ireland, grievously hurt, and doubted of my life, he came to visit me, and then began to acquaint me with his intent.

[As he thus spake, the sheriff began to interrupt him, and told him the hour was past. But my lord Gray, and Sir Walter Raleigh captain of the guard, called to the sheriff, and required him not to interrupt him, but to suffer him quietly to finish his prayers and confessions. Sir Christopher Blunt said, Is Sir Walter Raleigh there? Those on the scaffold answered, Yea. To whom Sir Christopher Blunt spake on this manner :]

Sir Walter Raleigh, I thank God that you are present: I had an infinite desire to speak with you, to ask you forgiveness ere I died, both for the wrong done you, and for my particular ill intent towards you: I beseech you forgive me.

Sir Walter Raleigh answered, That he most willingly forgave him, and besought God to forgive him, and to give him his divine comfort: protesting before the Lord, That whatsoever Sir Christopher Blunt meant towards him, for his part he never had any ill intent towards him : and farther said to Sir Christo-

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pher Blunt, " I pray you without offence let me put you in mind that you have been esteemed, not only a principal provoker and persuader of the earl of Essex in all his undutiful courses, but especially an adviser in that which had been confessed of his purpose to transport a great part of her majesty's army out of Ireland into England, to land at Milford, and thence to turn it against her sacred person. You shall do well to tell the truth, and to satisfy the world." To which he answered thus:

Sir, if you will give me patience, I will deliver a truth, speaking now my last, in the presence of God, in whose mercy I trust. [And then he directed himself to my lord Gray and my lord Compton, and the rest that sat on horseback near the scaffold.]

When I was brought from Reban to Dublin, and lodged in the castle, his lordship and the earl of Southampton came to visit me; and to be short, he began thus plainly with me: That he intended to transport a choice part of the army of Ireland into England, and land them in Wales, at Milford or thereabouts; and so securing his descent thereby, would gather such other forces as might enable him to march to London. To which, I protest before the Lord God, I made this or the like answer: That I would that night consider of it; which I did.

And the next day the earls came again: I told them, That such an enterprise, as it was most dangerous, so would it cost much blood, as I could not like of it; besides many hazards, which at this time I cannot remember unto you, neither will the time permit it.

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But I rather advised him to go over himself with a good train, and make sure of the court, and then make his own conditions.

And although it be true, that, as we all protested in our examinations and arraignments, we never resolved of doing hurt to her majesty's person, for in none of our consultations was there set down any such purpose; yet, I know, and must confess, if we had failed of our ends, we should, rather than have been disappointed, even have drawn blood from herself. From henceforward he dealt no more with me herein, until he was discharged of his keeper at Essex-house. And then, he again asked mine advice, and disputed the matter with me; but resolved not. I went then into the country, and before he sent for me, which was some ten days before his rebellion, I never heard more of the matter. And then he wrote unto me to come up, upon pretence of making some assurances of land, and the like. I will leave the rest unto my confessions, given to that honourable lord Admiral, and worthy Mr. Secretary, to whom I beseech you, Sir Walter Raleigh, commend me; I can requite their favourable and charitable dealing with me, with nought else but my prayers for them. And I beseech God of his mercy, to save and preserve the queen, who hath given comfort to my soul, in that I hear she hath forgiven me all, but the sentence of the law, which I most worthily deserved, and do most willingly embrace; and hope that God will have mercy and compassion on me, who have offended him as many ways as ever sinful wretch did. I have led

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a life so far from his precepts, as no sinner more. God forgive it me, and forgive me my wicked thoughts, my licentious life, and this right arm of mine, which, I fear me, hath drawn blood in this last action. And I beseech you all bear witness, that I die a Catholic, yet so, as I hope to be saved only by the death and passion of Christ, and by his merits, not ascribing any thing to mine own works. And I trust you are all good people, and your prayers may profit me. Farewell, my worthy lord Gray, and my lord Compton, and to you all; God send you both to live long in honour. I will desire to say a few prayers, and embrace my death most willingly.

With that he turned from the rail towards the executioner; and the minister offering to speak with him, he came again to the rail, and besought that his conscience might not be troubled, for he was resolved; which he desired for God's sake. Whereupon commandment was given, that the minister should not interrupt him any farther. After which he prepared himself to the block, and so died very manfully and resolutely.

## An abstract out of the earl of Essex's confession under his own hand.

Upon Saturday the twenty-first of February, after the late earl of Essex had desired us to come to him, as well to deliver his knowledge of those treasons, which he had formerly denied at the bar, as also to recommend his humble and earnest request, that her

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majesty would be pleased, out of her grace and favour, to suffer him to die privately in the Tower; he did marvellous earnestly desire, that we would suffer him to speak unto Cuffe his secretary: against whom he vehemently complained unto us, to have been a principal instigator to these violent courses which he had undertaken. Wherein he protested, that he chiefly desired that he might make it appear that he was not the only persuader of those great offences which they had committed; but that Blunt, Cuffe, Temple, besides those other persons who were at the private conspiracy at Drury-house, to which, though these three were not called, yet they were privy, had most malicious and bloody purposes to subvert the state and government: which could not have been prevented, if his project had gone forward.

This request being granted him, and Cuffe brought before him, he there directly and vehemently charged him; and among other speeches used these words: "Henry Cuffe, call to God for mercy, and to the queen, and deserve it by declaring truth. For I, that must now prepare for another world, have resolved to deal clearly with God and the world: and must needs say this to you; You have been one of the chiefest instigators of me to all these my disloyal courses into which I have fallen."

Testified by THO. EGERTON, C. S.
THO. BUCKHURST,
NOTTINGHAM,
RO. CECIL.

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The earl of Essex his confession to three ministers, whose names are underwritten, the 25th of February, 1600.

THE late earl of Essex thanked God most heartily, That he had given him a deeper insight into his offence, being sorry he had so stood upon his justification at his arraignment, for he was since that become another man.

He thanked God that his course was so prevented; for if his project had taken effect, God knows, said he, what harm it had wrought in the realm.

He humbly thanked her majesty, that he should die in so private a manner, lest the acclamation of the people might have been a temptation unto him. To which he added, that all popularity and trust in man was vain: the experience whereof himself had felt.

He acknowledged with thankfulness to God, that he was thus justly spewed out of the realm.

He publicly in his prayer and protestation, as also privately, aggravated the detestation of his offence; and especially in the hearing of them that were present at the execution, he exaggerated it with four epithets, desiring God to forgive him his great, his bloody, his crying, and his infectious sin: which word "infectious" he privately had explained to us, that it was a leprosy that had infected far and near.

THOMAS MONFORD,
WILLIAM BARLOW,
ABDY ASHTON, his chaplain.

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# ADVICE TO SIR GEORGE VILLIERS, AFTERWARDS DUKE OF BUCKINGHAM, WHEN HE BECAME FAVOURITE TO KING JAMES. RECOMMENDING MANY IMPORTANT INSTRUCTIONS HOW TO GOVERN HIMSELF IN THE STATION OF PRIME MINISTER.

WRITTEN BY SIR FRANCIS BACON, ON THE IMPORTUNITY OF HIS PATRON AND FRIEND.

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NOBLE SIR,

WHAT you requested of me by word, when I last waited on you, you have since renewed by your letters. Your requests are commands unto me; and yet the matter is of that nature, that I find myself very unable to serve you therein as you desire. It hath pleased the king to cast an extraordinary eye of favour upon you, and you express yourself very desirous to win upon the judgment of your master, and not upon his affections only. I do very much commend your noble ambition herein; for favour so bottomed is like to be lasting; whereas, if it be built but upon the sandy foundation of personal respects only, it cannot be long-lived.

[*My lord, when the blessing of God, to whom in the first place I know you ascribe your preferment,

[*What is found in crotchets is borrowed from the original edition published in 4to, 1661.]

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and the king's favour, purchased by your noble parts, promising as much as can be expected from a gentleman, had brought you to this high pitch of honour, to be in the eye, and ear, and even in the bosom of your gracious master; and you had found by experience the trouble of all mens confluence, and for all matters, to yourself, as a mediator between them and their sovereign, you were pleased to lay this command upon me: first in general, to give you my poor advice for your carriage in so eminent a place, and of so much danger if not wisely discharged: next in particular by what means to give dispatches to suitors of all sorts, for the king's best service, the suitors satisfaction, and your own ease. I humbly return you mine opinion in both these, such as an hermit rather than a courtier can render.]

Yet in this you have erred, in applying yourself to me the most unworthy of your servants, to give assistance upon so weighty a subject.

You know, I am no courtier, nor versed in state affairs; my life, hitherto, hath rather been contemplative than active; I have rather studied books than men; I can but guess, at the most, at these things, in which you desire to be advised: nevertheless, to shew my obedience, though with the hazard of my discretion, I shall yield unto you.

Sir, in the first place, I shall be bold to put you in mind of the present condition you are in; you are not only a courtier, but a bed-chamber man, and so are in the eye and ear of your master; but you are



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also a favourite; the favourite of the time, and so are in his bosom also; the world hath so voted you, and doth so esteem of you; for kings and great princes, even the wisest of them, have had their friends, their favourites, their privadoes, in all ages; for they have their affections as well as other men. Of these they make several uses; sometimes to communicate and debate their thoughts with them, and to ripen their judgments thereby; sometimes to ease their cares by imparting them; and sometimes to interpose them between themselves and the envy or malice of their people; for kings cannot err, that must be discharged upon the shoulders of their ministers; and they who are nearest unto them must be content to bear the greatest load. [Remember then what your true condition is: the king himself is above the reach of his people, but cannot be above their censures; and you are his shadow, if either he commit an error, and is loth to avow it, but excuses it upon his ministers, of which you are first in the eye; or you commit the fault or have willingly permitted it, and must suffer for it: and so perhaps you may be offered a sacrifice to appease the multitude.] But truly, Sir, I do not believe or suspect that you are chosen to this eminency, out of the last of these considerations: for you serve such a master, who by his wisdom and goodness is as free from the malice or envy of his subjects, as I think, I may truly say, ever any king was, who hath sat upon his throne before him: but I am confident, his majesty hath cast his eyes upon you, as finding you to be such as you should be, or hoping to

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make you to be such as he would have you to be; for this I may say, without flattery, your outside promiseth as much as can be expected from a gentleman: but be it in the one respect, or other, it belongeth to you to take care of yourself, and to know well what the name of a favourite signifies. If you be chosen upon the former respects, you have reason to take care of your actions and deportment, out of your gratitude, for the king's sake; but if out of the latter, you ought to take the greater care for your own sake.

You are as a new-risen star, and the eyes of all men are upon you; let not your own negligence make you fall like a meteor.

[Remember well the great trust you have undertaken; you are as a continual centinel, always to stand upon your watch to give him true intelligence. If you flatter him, you betray him; if you conceal the truth of those things from him which concern his justice or his honour, although not the safety of his person, you are as dangerous a traitor to his state, as he that riseth in arms against him. A false friend is more dangerous than an open enemy: kings are styled gods upon earth, not absolute, but "Dixi, Dii estis;" and the next words are, "sed moriemini sicut homines;" they shall die like men, and then all their thoughts perish. They cannot possibly see all things with their own eyes, nor hear all things with their own ears; they must commit many great trusts to their ministers. Kings must be answerable to God Almighty, to whom they are but vas-

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sals, for their actions, and for their negligent omissions: but the ministers to kings, whose eyes, ears, and hands they are, must be answerable to God and man for the breach of their duties, in violation of their trusts, whereby they betray them. Opinion is a master wheel in these cases: that courtier who obtained a boon of the emperor, that he might every morning at his coming into his presence humbly whisper him in the ear and say nothing, asked no unprofitable suit for himself: but such a fancy raised only by opinion cannot be long-lived, unless the man have solid worth to uphold it; otherwise when once discovered it vanisheth suddenly. But when a favourite in court shall be raised upon the foundation of merits, and together with the care of doing good service to the king, shall give good dispatches to the suitors, then can he not choose but prosper.]

The contemplation then of your present condition must necessarily prepare you for action: what time can be well spared from your attendance on your master, will be taken up by suitors, whom you cannot avoid nor decline without reproach. For if you do not already, you will soon find the throng of suitors attend you; for no man, almost, who hath to do with the king, will think himself safe, unless you be his good angel, and guide him; or at least that you be not a "malus genius" against him: so that, in respect of the king your master, you must be very wary that you give him true information; and if the matter concern him in his government, that

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you do not flatter him: if you do, you are as great a traitor to him in the court of heaven, as he that draws his sword against him: and in respect of the suitors which shall attend you, there is nothing will bring you more honour and more ease, than to do them what right in justice you may, and with as much speed as you may: for believe it, Sir, next to the obtaining of the suit, a speedy and gentle denial, when the case will not bear it, is the most acceptable to suitors: they will gain by their dispatch; whereas else they shall spend their time and money in attending, and you will gain, in the ease you will find in being rid of their importunity. But if they obtain what they reasonably desired, they will be doubly bound to you for your favour; "Bis dat qui cito dat," it multiplies the courtesy, to do it with good words and speedily.

That you may be able to do this with the best advantage, my humble advice is this; when suitors come unto you, set apart a certain hour in a day to give them audience: if the business be light and easy, it may by word only be delivered, and in a word be answered; but if it be either of weight or of difficulty, direct the suitor to commit it to writing, if it be not so already, and then direct him to attend for his answer at a set time to be appointed, which would constantly be observed, unless some matter of great moment do interrupt it. When you have received the petitions, and it will please the petitioners well, to have access unto you to deliver them into your own hand, let your secretary

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first read them, and draw lines under the material parts thereof; for the matter, for the most part, lies in a narrow room. The petitions being thus prepared, do you constantly set apart an hour in a day to peruse those petitions; and after you have ranked them into several files, according to the subject matter, make choice of two or three friends, whose judgments and fidelities you believe you may trust in a business of that nature; and recommend it to one or more of them, to inform you of their opinions, and of their reasons for or against the granting of it. And if the matter be of great weight indeed, then it would not be amiss to send several copies of the same petition to several of your friends, the one not knowing what the other doth, and desire them to return their answers to you by a certain time, to be prefixed, in writing; so shall you receive an impartial answer, and by comparing the one with the other, as out of "responsa prudentium," you shall both discern the abilities and faithfulness of your friends, and be able to give a judgment thereupon as an oracle. But by no means trust to your own judgment alone; for no man is omniscient: nor trust only to your servants, who may mislead you or misinform you; by which they may perhaps gain a few crowns, but the reproach will lie upon yourself, if it be not rightly carried.

For the facilitating of your dispatches, my advice is farther, that you divide all the petitions, and the matters therein contained, under several heads:

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which, I conceive, may be fitly ranked into these eight sorts.

I. Matters that concern religion, and the Church and churchmen.

II. Matters concerning justice, and the laws, and the professors thereof.

III. Councillors, and the council table, and the great offices and officers of the kingdom,

IV. Foreign negociations and embassies.

V. Peace and war, both foreign and civil, and in that the navy and forts, and what belongs to them.

VI. Trade at home and abroad.

VII. Colonies, or foreign plantations.

VIII. The court and curiality.

And whatsoever will not fall naturally under one of these heads, believe me, Sir, will not be worthy of your thoughts, in this capacity, we now speak of. And of these sorts, I warrant you, you will find enough to keep you in business.

I BEGIN with the first, which concerns religion.

1. In the first place, be you yourself rightly persuaded and settled in the true protestant religion, professed by the Church of England; which doubtless is as sound and orthodox in the doctrine thereof, as any Christian Church in the world.

[For religion, if any thing be offered to you touching it, or touching the Church, or Churchmen, or Church-government, rely not only upon yourself, but take the opinion of some grave and eminent di-

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vines, especially such as are sad and discreet men, and exemplary for their lives.]

2. In this you need not be a monitor to your gracious master the king: the chiefest of his imperial titles is, to be The Defender of the Faith, and his learning is eminent, not only above other princes, but above other men; be but his scholar, and you are safe in that.

[If any question be moved concerning the doctrine of the Church of England expressed in the thirty-nine articles, give not the least ear to the movers thereof: that is so soundly and so orthodoxly settled, as cannot be questioned without extreme danger to the honour and stability of our religion; which hath been sealed with the blood of so many martyrs and confessors, as are famous through the Christian world. The enemies and underminers thereof are the Romish Catholic, so stiling themselves, on the one hand, whose tenets are inconsistent with the truth of religion professed and protested by the Church of England, whence we are called protestants; and the anabaptists, and separatists, and sectaries on the other hand, whose tenets are full of schism, and inconsistent with monarchy: for the regulating of either, there needs no other coercion than the due execution of the laws already established by parliament.]

3. For the discipline of the Church of England by bishops, &c. I will not positively say, as some do, that it is "jure divino"; but this I say and think "ex animo," that it is the nearest to apostolical truth;

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and confidently I shall say, it is fittest for monarchy of all others. I will use no other authority to you, than that excellent proclamation set out by the king himself in the first year of his reign, and annexed before the book of Common-prayer, which I desire you to read; and if at any time there shall be the least motion made for innovation, to put the king in mind to read it himself: it is most dangerous in a state, to give ear to the least alterations in government.

[If any attempt be made to alter the discipline of our Church, although it be not an essential part of our religion, yet it is so necessary not to be rashly altered, as the very substance of religion will be interested in it: therefore I desire you before any attempt be made of an innovation by your means, or by any intercession to your master, that you will first read over, and his majesty call to mind that wise and weighty proclamation, which himself penned, and caused to be published in the first year of his reign, and is prefixed in print before the book of Common-prayer, of that impression, in which you will find so prudent, so weighty reasons, not to hearken to innovations, as will fully satisfy you, that it is dangerous to give the least ear to such innovators; but it is desperate to be misled by them: and to settle your judgment, mark but the admonition of the wisest of men, king Solomon, Prov. xxiv. 21. "My son, fear God and the king, and meddle not with those who are given to change."]

4. Take heed, I beseech you, that you be not an instrument to countenance the Romish catholics. I

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cannot flatter, the world believes that some near in blood to you are too much of that persuasion; you must use them with fit respects, according to the bonds of nature; but you are of kin, and so a friend to their persons, not to their errors.

5. The archbishops and bishops, next under the king, have the government of the Church and ecclesiastical affairs: be not you the mean to prefer any to those places for any by-respects; but only for their learning, gravity, and worth: their lives and doctrine ought to be exemplary.

6. For deans, and canons or prebends of cathedral churches; in their first institution they were of great use in the Church; they were not only to be of counsel with the bishop for his revenue, but chiefly for his government in causes ecclesiastical: use your best means to prefer such to those places who are fit for that purpose, men eminent for their learning, piety, and discretion, and put the king often in mind thereof; and let them be reduced again to their first institution.

7. You will be often solicited, and perhaps importuned to prefer scholars to church living: you may further your friends in that way, "cæteris paribus"; otherwise remember, I pray, that these are not places merely of favour; the charge of souls lies upon them; the greatest account whereof will be required at their own hands; but they will share deeply in their faults who are the instruments of their preferment.

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8. Besides the Romish catholics, there is a generation of sectaries, the anabaptists, brownists, and others of their kinds; they have been several times very busy in this kingdom, under the colour of zeal for reformation of religion: the king your master knows their disposition very well; a small touch will put him in mind of them; he had experience of them in Scotland, I hope he will beware of them in England; a little countenance or connivency sets them on fire.

9. Order and decent ceremonies in the Church are not only comely, but commendable; but there must be great care not to introduce innovations, they will quickly prove scandalous; men are naturally over-prone to suspicion; the true protestant religion is seated in the golden mean; the enemies unto her are the extremes on either hand.

10. The persons of church-men are to be had in due respect for their work's sake, and protected from scorn; but if a clergyman be loose and scandalous, he must not be patronized nor winked at; the example of a few such corrupt many.

11. Great care must be taken, that the patrimony of the Church be not sacrilegiously diverted to lay uses: his majesty in his time hath religiously stopped a leak that did much harm, and would else have done more. Be sure, as much as in you lies, stop the like upon all occasions.

12. Colleges and schools of learning are to be cherished and encouraged, there to breed up a new stock to furnish the Church and commonwealth when the old store are transplanted. This kingdom hath

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in later ages been famous for good literature; and if preferment shall attend the deservers, there will not want supplies.

II. NEXT to religion, let your care be to promote justice. By justice and mercy is the king's throne established.

1. Let the rule of justice be the laws of the land, an impartial arbiter between the king and his people, and between one subject and another: I shall not speak superlatively of them, lest I be suspected of partiality, in regard of my own profession; but this I may truly say, They are second to none in the Christian world.

[They are the best, the equallest in the world between prince and people; by which the king hath the justest prerogative, and the people the best liberty: and if at any time there be an unjust deviation, "Hominis est vitium, non professionis."]

2. And as far as it may lie in you, let no arbitrary power be intruded: the people of this kingdom love the laws thereof, and nothing will oblige them more, than a confidence of the free enjoying of them; what the nobles upon an occasion once said in parliament, "Nolumus leges Angliæ mutare," is imprinted in the hearts of all the people.

3. But because the life of the laws lies in the due execution and administration of them, let your eye be, in the first place, upon the choice of good judges: these properties had they need to be furnished with; to be learned in their profession, patient in hearing,

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prudent in governing, powerful in their elocution to persuade and satisfy both the parties and hearers; just in their judgment; and, to sum up all, they must have these three attributes; they must be men of courage, fearing God, and hating covetousness; an ignorant man cannot, a coward dares not be a good judge.

4. By no means be you persuaded to interpose yourself, either by word or letter, in any cause depending, or like to be depending in any court of justice, nor suffer any other great man to do it where you can hinder it, and by all means dissuade the king himself from it, upon the importunity of any for themselves or their friends: if it should prevail, it perverts justice; but if the judge be so just, and of such courage, as he ought to be, as not to be inclined thereby, yet it always leaves a taint of suspicion behind it; judges must be as chaste as Cæsar's wife, neither to be, nor to be suspected to be unjust; and, Sir, the honour of the judges in their judicature is the king's honour, whose person they represent.

5. There is great use of the service of the judges in their circuits, which are twice in the year held throughout the kingdom: the trial of causes between party and party, or delivering of the gaols in the several counties, are of great use for the expedition of justice; yet they are of much more use for the government of the counties through which they pass, if that were well thought upon.

6. For if they had instructions to that purpose, they might be the best intelligencers to the king of

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the true state of his whole kingdom, of the disposition of the people, of their inclinations, of their intentions and motions, which are necessary to be truly understood.

7. To this end I could wish, that against every circuit all the judges should, sometimes by the king himself, and sometimes by the lord Chancellor or lord Keeper, in the king's name, receive a charge of those things which the present times did much require; and at their return should deliver a faithful account thereof, and how they found and left the counties through which they passed, and in which they kept their assizes.

8. And that they might the better perform this work, which might be of great importance, it will not be amiss that sometimes this charge be public, as it useth to be in the Star-chamber, at the end of the terms next before the circuit begins, where the king's care of justice, and the good of his people, may be published; and that sometimes also it may be private, to communicate to the judges some things not so fit to be publicly delivered.

9. I could wish also, that the judges were directed to make a little longer stay in a place than usually they do; a day more in a county would be a very good addition; although their wages for their circuits were increased in proportion: it would stand better with the gravity of their employment; whereas now they are sometimes enforced to rise over-early, and to sit over-late, for the dispatch of their business, to the extraordinary trouble of themselves and

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of the people, their times indeed not being "horæ juridicæ;" and, which is the main, they would have the more leisure to inform themselves, "quasi aliud agentes," of the true estate of the country.

10. The attendance of the sheriffs of the counties, accompanied with the principal gentlemen, in a comely, not a costly equipage, upon the judges of assize at their coming to the place of their sitting, and at their going out, is not only a civility, but of use also: it raiseth a reverence to the persons and places of the judges, who coming from the king himself on so great an errand, should not be neglected.

11. If any sue to be made a judge, for my own part, I should suspect him: but if either directly or indirectly he should bargain for a place of judicature, let him be rejected with shame; "Vendere jure potest, emerat ille prius."

12. When the place of a chief judge of a court becomes vacant, a puisne judge of that court, or of another court, who hath approved himself fit and deserving, should be sometimes preferred; it would be a good encouragement for him, and for others by his example.

13. Next to the judge, there would be care used in the choice of such as are called to the degree of serjeants at law, for such they must be first before they be made judges; none should be made serjeants but such as probably might be held fit to be judges afterwards, when the experience at the bar hath fitted them for the bench: therefore by all means

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cry down that unworthy course of late times used, that they should pay monies for it; it may satisfy some courtiers, but it is no honour to the person so preferred, nor to the king, who thus prefers them.

14. For the king's counsel at the law, especially his attorney and solicitor general, I need say nothing: their continual use for the king's service, not only for his revenue, but for all the parts of his government, will put the king, and those who love his service, in mind to make choice of men every way fit and able for that employment; they had need to be learned in their profession, and not ignorant in other things; and to be dexterous in those affairs whereof the dispatch is committed to them.

15. The king's attorney of the court of wards is in the true quality of the judges; therefore what hath been observed already of judges, which are intended principally of the three great courts of law at Westminster, may be applied to the choice of the attorney of this court.

16. The like for the attorney of the duchy of Lancaster, who partakes of both qualities, partly of a judge in that court, and partly of an attorney-general for so much as concerns the proper revenue of the duchy.

17. I must not forget the judges of the four circuits in the twelve shires of Wales, who although they are not of the first magnitude, nor need be of the degree of the coif, only the chief justice of Chester, who is one of their number, is so, yet are they considerable in the choice of them, by the same rules

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as the other judges are; and they sometimes are, and fitly may be, transplanted into the higher courts.

18. There are many courts, as you see, some superior, some provincial, and some of a lower orb: it were to be wished, and is fit to be so ordered, that every of them keep themselves within their proper spheres. The harmony of justice is then the sweetest, when there is no jarring about the jurisdiction of the courts; which methinks wisdom cannot much differ upon, their true bounds being for the most part so clearly known.

19. Having said thus much of the judges, somewhat will be fit to put you in mind concerning the principal ministers of justice: and in the first, of the high sheriffs of the counties, which have been very ancient in this kingdom; I am sure before the conquest; the choice of them I commend to your care, and that at fit times you put the king in mind thereof; that as near as may be they be such as are fit for those places: for they are of great trust and power; the "posse comitatus," the power of the whole county being legally committed unto him.

20. Therefore it is agreeable with the intention of the law, that the choice of them should be by the commendation of the great officers of the kingdom, and by the advice of the judges, who are presumed to be well read in the condition of the gentry of the whole kingdom: and although the king may do it of himself, yet the old way is the good way.

21. But I utterly condemn the practice of the later times, which hath lately crept into the court, at



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the back-stairs, that some who are pricked for sheriffs, and were fit, should get out of the bill; and others who were neither thought upon, nor worthy to be, should be nominated, and both for money.

22. I must not omit to put you in mind of the lords lieutenants and deputy lieutenants of the counties: their proper use is for ordering the military affairs, in order to an invasion from abroad, or a rebellion or sedition at home; good choice should be made of them, and prudent instructions given to them, and as little of the arbitrary power, as may be, left unto them; and that the muster-masters, and other officers under them, incroach not upon the subject; that will detract much from the king's service.

23. The justices of peace are of great use. Anciently, there were conservators of the peace; these are the same, saving that several acts of parliament have altered their denomination, and enlarged their jurisdiction in many particulars: the fitter they are for the peace of the kingdom, the more heed ought to be taken in the choice of them.

24. But negatively, this I shall be bold to say, that none should be put into either of those commissions with an eye of favour to their persons, to give them countenance or reputation in the places where they live, but for the king's service sake; nor any put out for the disfavour of any great man: it hath been too often used, and hath been no good service to the king.

25. A word more, if you please to give me leave, for the true rules of moderation of justice on the king's part. The execution of justice is committed

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to his judges, which seemeth to be the severer part; but the milder part, which is mercy, is wholly left in the king's immediate hand: and justice and mercy are the true supporters of his royal throne.

26. If the king shall be wholly intent upon justice, it may appear with an over-rigid aspect; but if he shall be over-remiss and easy, it draweth upon him contempt. Examples of justice must be made sometimes for terror to some; examples of mercy sometimes, for comfort to others; the one procures fear, and the other love. A king must be both feared and loved, else he is lost.

27. The ordinary courts of justice I have spoken of, and of their judges and judicature: I shall put you in mind of some things touching the high court of parliament in England, which is superlative; and therefore it will behove me to speak the more warily thereof.

28. For the institution of it, it is very ancient in this kingdom: it consisteth of the two houses, of peers and commons, as the members; and of the king's majesty, as the head of that great body: by the king's authority alone, and by his writs, they are assembled, and by him alone are they prorogued and dissolved; but each house may adjourn itself.

29. They being thus assembled, are more properly a council to the king, the great council of the kingdom, to advise his majesty in those things of weight and difficulty, which concern both the king and people, than a court.

30. No new laws can be made, nor old laws

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abrogated or altered, but by common consent in parliament, where bills are prepared and presented to the two houses, and then delivered, but nothing is concluded but by the king's royal assent; they are but embryos, it is he giveth life unto them.

31. Yet the house of peers hath a power of judicature in some cases: properly to examine, and then to affirm; or, if there be cause, to reverse the judgments which have been given in the court of king's bench, which is the court of highest jurisdiction in the kingdom for ordinary judicature; but in these cases it must be done by writ of error "in parliamento:" and thus the rule of their proceedings is not "absoluta potestas," as in making new laws, in that conjuncture as before, but "limitata potestas," according to the known laws of the land.

32. But the house of commons have only power to censure the members of their own house, in point of election, or misdemeanors in or towards that house; and have not, nor ever had, power so much as to administer an oath to prepare a judgment.

33. The true use of parliaments in this kingdom is very excellent; and they would be often called, as the affairs of the kingdom shall require; and continued as long as is necessary and no longer: for then they be but burdens to the people, by reason of the privileges justly due to the members of the two houses and their attendants, which, their just rights and privileges are religiously to be observed and maintained: but if they should be unjustly enlarged beyond their true bounds, they might

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lessen the just power of the crown, it borders so near upon popularity.

34. All this while I have spoken concerning the common laws of England, generally and properly so called, because it is most general and common to almost all cases and causes, both civil and criminal: but there is also another law, which is called the civil or ecclesiastical law, which is confined to some few heads, and that is not to be neglected: and although I am a professor of the common law, yet am I so much a lover of truth and of learning, and of my native country, that I do heartily persuade that the professors of that law, called civilians, because the civil law is their guide, should not be discountenanced nor discouraged: else whensoever we shall have aught to do with any foreign king or state, we shall be at a miserable loss, for want of learned men in that profession.

III. I come now to the consideration of those things which concern counsellors of state, the council table, and the great offices and officers of the kingdom; which are those who for the most part furnish out that honourable board.

1. Of counsellors there are two sorts: the first, "consiliarii nati," as I may term them, such are the prince of Wales, and others of the king's sons, when he hath more, of these I speak not, for they are naturally born to be counsellors to the king, to learn the art of governing betimes.

2. But the ordinary sort of counsellors are such

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as the king, out of a due consideration of their worth and abilities, and withal, of their fidelities to his person and to his crown, calleth to be of council with him in his ordinary government. And the council-table is so called from the place where they ordinarily assemble and sit together; and their oath is the only ceremony used to make them such, which is solemnly given unto them at their first admission: these honourable persons are from thenceforth of that board and body: they cannot come until they be thus called, and the king at his pleasure may spare their attendance; and he may dispense with their presence there, which at their own pleasure they may not do.

3. This being the quality of their service, you may easily judge what care the king should use in his choice of them. It behoveth that they be persons of great trust and fidelity, and also of wisdom and judgment, who shall thus assist in bearing up the king's throne, and of known experience in public affairs.

4. Yet it may not be unfit to call some of young years, to train them up in that trade, and so fit them for those weighty affairs against the time of greater maturity, and some also for the honour of their persons: but these two sorts are not to be tied to so strict attendance as the others, from whom the present dispatch of business is expected.

5. I could wish that their number might not be so over-great, the persons of the counsellors would be the more venerable: and I know that queen Eli-

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zabeth, in whose time I had the happiness to be born and to live many years, was not so much observed for having a numerous as a wise council.

6. The duty of a privy-counsellor to a king, I conceive, is not only to attend the council-board at the times appointed, and there to consult of what shall be propounded; but also to study those things which may advance the king's honour and safety, and the good of the kingdom, and to communicate the same to the king, or to his fellow-counsellors, as there shall be occasion. And this, Sir, will concern you more than others, by how much you have a larger share in his affections.

7. And one thing I shall be bold to desire you to recommend to his majesty: that when any new thing shall be propounded to be taken into consideration, that no counsellor should suddenly deliver any positive opinion thereof: it is not so easy with all men to retract their opinions, although there shall be cause for it: but only to hear it, and at the most but to break it, at first, that it may be the better understood against the next meeting.

8. When any matter of weight hath been debated, and seemeth to be ready for a resolution; I wish it may not be at that sitting concluded, unless the necessity of the time press it, lest upon second cogitations there should be cause to alter; which is not for the gravity and honour of that board.

9. I wish also that the king would be pleased sometimes to be present at that board; it adds a majesty to it: and yet not to be too frequently

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there; that would render it less esteemed when it is become common: besides, it may sometimes make the counsellors not be so free in their debates in his presence as they would be in his absence.

10. Besides the giving of counsel, the counsellors are bound by their duties "ex vi termini," as well as by their oaths, to keep counsel; therefore are they called "de privato consilio regis," and "a secretioribus consiliis regis."

11. One thing I add, in the negative, which is not fit for that board, the entertaining of private causes of "meum et tuum;" those should be left to the ordinary course and courts of justice.

12. As there is great care to be used for the counsellors themselves to be chosen, so there is of the clerks of the council also, for the secreting of their consultations: and methinks, it were fit that his majesty be speedily moved to give a strict charge, and to bind it with a solemn order, if it be not already so done, that no copies of the orders of that table be delivered out by the clerks of the council but by the order of the board; nor any, not being a counsellor, or a clerk of the council, or his clerk, to have access to the council books: and to that purpose, that the servants attending the clerks of the council be bound to secrecy, as well as their masters.

13. For the great offices and officers of the kingdom, I shall say little; for the most part of them are such as cannot well be severed from the counsellorship; and therefore the same rule is to be observed for both, in the choice of them. In the general, only,

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I advise this, let them be set in those places for which they are probably the most fit.

14. But in the quality of the persons, I conceive it will be most convenient to have some of every sort, as in the time of queen Elizabeth it was: one bishop at the least, in respect of questions touching religion or Church government; one or more skilled in the laws; some for martial affairs; and some for foreign affairs: by this mixture one will help another in all things that shall there happen to be moved. But if that should fail, it will be a safe way, to consult with some other able persons well versed in that point which is the subject of their consultation; which yet may be done so warily, as may not discover the main end therein.

IV. In the next place, I shall put you in mind of foreign negociations, and embassies to or with foreign princes or states; wherein I shall be little able to serve you.

1. Only, I will tell you what was the course in the happy days of queen Elizabeth, whom it will be no dis-reputation to follow: she did vary, according to the nature of the employment, the quality of the persons she employed; which is a good rule to go by.

2. If it were an embassy of gratulation or ceremony, which must not be neglected, choice was made of some noble person eminent in place and able in purse; and he would take it as a mark of favour,

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and discharge it without any great burden to the queen's coffers, for his own honour's sake.

3. But if it were an embassy of weight, concerning affairs of state, choice was made of some sad person of known judgment, wisdom, and experience; and not of a young man not weighed in state matters; nor of a mere formal man, whatsoever his title or outside were.

4. Yet in company of such, some young towardly noblemen or gentlemen were usually sent also, as assistants or attendants, according to the quality of the persons; who might be thereby prepared and fitted for the like employment, by this means, at another turn.

5. In their company were always sent some grave and sad men, skilful in the civil laws, and some in the languages, and some who had been formerly conversant in the courts of those princes, and knew their ways; these were assistants in private, but not trusted to manage the affairs in public; that would detract from the honour of the principal ambassador.

6. If the negociation were about merchants affairs, then were the persons employed for the most part doctors of the civil law, assisted with some other discreet men; and in such, the charge was ordinarily defrayed by the company or society of merchants whom the negociation concerned.

7. If lieger ambassadors or agents were sent to remain in or near the courts of those princes or

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states, as it was ever held fit, to observe the motions, and to hold correspondence with them, upon all occasions, such were made choice of as were presumed to be vigilant, industrious, and discreet men, and had the language of the place whither they were sent; and with these were sent such as were hopeful to be worthy of the like employment at another time.

8. Their care was, to give true and timely intelligence of all occurrences, either to the queen herself, or to the secretaries of state, unto whom they had their immediate relation.

9. Their charge was always borne by the queen, duly paid out of the exchequer, in such proportion, as, according to their qualities and places, might give them an honourable subsistence there: but for the reward of their service, they were to expect it upon their return, by some such preferment as might be worthy of them, and yet be little burden to the queen's coffers or revenues.

10. At their going forth they had their general instructions in writing, which might be communicated to the ministers of that state whither they were sent; and they had also private instructions upon particular occasions: and at their return, they did always render an account of some things to the queen herself, of some things to the body of the council, and of some others to the secretaries of state; who made use of them, or communicated them, as there was cause.

11. In those days there was a constant course

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held, that by the advice of the secretaries, or some principal counsellors, there were always sent forth into several parts beyond the seas some young men, of whom good hopes were conceived of their towardliness, to be trained up, and made fit for such public employments, and to learn the languages. This was at the charge of the queen, which was not much; for they travelled but as private gentlemen: and as by their industry their deserts did appear, so were they farther employed or rewarded. This course I shall recommend unto you, to breed up a nursery of such public plants.

V. For peace and war, and those things which appertain to either; I in my own disposition and profession am wholly for peace, if please God to bless this kingdom therewith, as for many years past he hath done: and

1. I presume I shall not need to persuade you to the advancing of it; nor shall you need to persuade the king your master therein, for that he hath hitherto been another Solomon in this our Israel, and the motto which he hath chosen, "Beati pacifici," shews his own judgment: but he must use the means to preserve it, else such a jewel may be lost.

2. God is the God of peace; it is one of his attributes, therefore by him alone we must pray, and hope to continue it: there is the foundation.

3. And the king must not neglect the just ways for it; justice is the best protector of it at home,

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and providence for war is the best prevention of it from abroad.

4. Wars are either foreign or civil; for the foreign war by the king upon some neighbour nation, I hope we are secure; the king in his pious and just disposition is not inclinable thereunto; his empire is long enough, bounded with the ocean, as if the very situation thereof had taught the king and people to set up their rests, and say, "Ne plus ultra."

5. And for a war of invasion from abroad; only we must not be over-secure: that is the way to invite it.

6. But if we be always prepared to receive an enemy, if the ambition or malice of any should incite him, we may be very confident we shall long live in peace and quietness, without any attempts upon us.

7. To make the preparations hereunto the more assured: in the first place, I will recommend unto you the care of our out-works, the navy royal and shipping of our kingdom, which are the walls thereof: and every great ship is as an impregnable fort; and our many safe and commodious ports and havens, in every of these kingdoms, are as the redoubts to secure them.

8. For the body of the ships, no nation of the world doth equal England for the oaken timber wherewith to build them; and we need not borrow of any other iron for spikes, or nails, to fasten them together; but there must be a great deal of provi-

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dence used, that our ship timber be not unnecessarily wasted.

9. But for tackling, as sails and cordage, we are beholden to our neighbours for them, and do buy them for our money; that must be foreseen and laid up in store against a time of need, and not sought for when we are to use them: but we are much to blame that we make them not at home; only pitch and tar we have not of our own.

10. For the true art of building of ships, for burden and service both, no nation in the world exceeds us; ship-wrights and all other artisans belonging to that trade must be cherished and encouraged.

11. Powder and ammunition of all sorts we can have at home, and in exchange for other home commodities we may be plentifully supplied from our neighbours, which must not be neglected.

12. With mariners and seamen this kingdom is plentifully furnished: the constant trade of merchandising will furnish us at a need; and navigable rivers will repair the store, both to the navy royal and to the merchants, if they be set on work, and well paid for their labour.

13. Sea captains and commanders, and other officers must be encouraged, and rise by degrees, as their fidelity and industry deserve it.

[Let brave spirits that have fitted themselves for command, either by sea or land, not be laid by, as persons unnecessary for the time: let arms and am-

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munition of all sorts be provided and stored up, as against a day of battle; let the ports and forts be fitted so, as if by the next wind we should hear of an alarm; such a known providence is the surest protection. But of all wars, let both prince and people pray against a war in our own bowels: the king by his wisdom, justice, and moderation, must foresee and stop such a storm, and if it fall, must allay it; and the people by their obedience must decline it. And for a foreign war intended by an invasion to enlarge the bounds of our empire, which are large enough, and are naturally bounded with the ocean, I have no opinion either of the justness or fitness of it; and it were a very hard matter to attempt it with hope of success, seeing the subjects of this kingdom believe it is not legal for them to be enforced to go beyond the seas, without their own consent, upon hope of an unwarranted conquest; but to resist an invading enemy, or to suppress rebels, the subject may and must be commanded out of the counties where they inhabit. The whole kingdom is but one intire body; else it will necessarily be verified, which elsewhere was asserted, " Dum singuli pugnamus, omnes vincimur."]

14. Our strict league of amity and alliance with our near neighbours the Hollanders is a mutual strength to both; the shipping of both, in conjuncture, being so powerful, by God's blessing, as no foreigners will venture upon; this league and friendship must inviolably be observed.

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15. From Scotland we have had in former times some alarms, and inroads into the northern parts of this kingdom; but that happy union of both kingdoms under one sovereign, our gracious king, I hope, hath taken away all occasions of breach between the two nations. Let not the cause arise from England, and I hope the Scots will not adventure it; or if they do, I hope they will find, that although to our king they were his first-born subjects, yet to England belongs the birthright: but this should not be any cause to offer any injury to them, nor to suffer any from them.

16. There remains then no danger, by the blessing of God, but a civil war, from which God of his mercy defend us, as that which is most desperate of all others. The king's wisdom and justice must prevent it, if it may be; or if it should happen, "quod absit," he must quench that wild-fire with all the diligence that possibly can be.

17. Competition to the crown there is none, nor can be, therefore it must be a fire within the bowels, or nothing; the cures whereof are these, "remedium præveniens," which is the best physic, either to a natural body, or to a state, by just and equal government to take away the occasion; and "remedium puniens," if the other prevail not: the service and vigilancy of the deputy lieutenants in every county, and of the high sheriff, will contribute much herein to our security.

18. But if that should not prevail, by a wise and

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timous inquisition, the peccant humours and humorists must be discovered, and purged, or cut off; mercy, in such a case, in a king is true cruelty.

19. Yet if the heads of the tribes can be taken off, and the misled multitude will see their error, and return to their obedience, such an extent of mercy is both honourable and profitable.

20. A king, against a storm, must foresee to have a convenient stock of treasure; and neither be without money, which is the sinews of war, nor to depend upon the courtesy of others, which may fail at a pinch.

21. He must also have a magazine of all sorts, which must be had from foreign parts, or provided at home, and to commit them to several places, under the custody of trusty and faithful ministers and officers, if it be possible.

22. He must make choice of expert and able commanders to conduct and manage the war, either against a foreign invasion, or a home rebellion; which must not be young and giddy, which dare, not only to fight, but to swear, and drink, and curse, neither fit to govern others, nor able to govern themselves.

23. Let not such be discouraged, if they deserve well, by misinformation, or for the satisfying the humours or ambition of others, perhaps out of envy, perhaps out of treachery, or other sinister ends. A steady hand in governing of military affairs is more requisite than in times of peace, because an error committed in war, may perhaps, prove irremediable.



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24. If God shall bless these endeavours, and the king return to his own house in peace, when a civil war shall be at an end, those who have been found faithful in the land must be regarded, yea, and rewarded also; the traitorous, or treacherous, who have misled others, severely punished; and the neutrals and false-hearted friends and followers, who have started aside like a broken bow, be noted "carbone nigro." And so I shall leave them, and this part of the work.

VI. I COME to the sixth part, which is trade; and that is either at home or abroad. And I begin with that which is at home, which enableth the subjects of the kingdom to live, and layeth a foundation to a foreign trade by traffic with others, which enableth them to live plentifully and happily.

1. For the home trade, I first, commend unto your consideration the encouragement of tillage, which will enable the kingdom for corn for the natives, and to spare for exportation: and I myself have known, more than once, when, in times of dearth, in queen Elizabeth's days, it drained much coin of the kingdom, to furnish us with corn from foreign parts.

2. Good husbands will find the means, by good husbandry, to improve their lands, by lime, chalk, marl, or sea-sand, where it can be had: but it will not be amiss, that they be put in mind thereof, and encouraged in their industries.

3. Planting of orchards, in a soil and air fit for

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them is very profitable, as well as pleasurable; cyder and perry are notable beverages in sea voyages.

4. Gardens are also very profitable, if planted with artichokes, roots, and such other things as are fit for food; whence they be called kitchen gardens, and that very properly.

5. The planting of hop-yards, sowing of woad and rape seed, are found very profitable for the planters, in places apt for them, and consequently profitable for the kingdom, which for divers years was furnished with them from beyond the seas.

6. The planting and preserving of woods, especially of timber, is not only profitable, but commendable, therewith to furnish posterity, both for building and shipping.

7. The kingdom would be much improved by draining of drowned lands, and gaining that in from the overflowing of salt waters and the sea, and from fresh waters also.

8. And many of those grounds would be exceeding fit for dairies, which, being well housewived, are exceeding commodious.

9. Much good land might be gained from forests and chases, more remote from the king's access, and from other commonable places, so as always there be a due care taken, that the poor commoners have no injury by such improvement.

10. The making of navigable rivers would be very profitable; they would be as so many in-draughts of wealth, by conveying of commodities with ease from place to place.

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11. The planting of hemp and flax would be an unknown advantage to the kingdom, many places therein being as apt for it, as any foreign parts.

12. But add thereunto, that if it be converted into linen-cloth or cordage, the commodity thereof will be multiplied.

13. So it is of the wools and leather of the kingdom, if they be converted into manufactures.

14. Our English dames are much given to the wearing of costly laces; and, if they be brought from Italy, or France, or Flanders, they are in great esteem; whereas, if the like laces were made by the English, so much thread as would make a yard of lace, being put into that manufacture, would be five times, or, perhaps, ten or twenty times the value.

15. The breeding of cattle is of much profit, especially the breed of horses, in many places, not only for travel, but for the great saddle; the English horse, for strength, and courage, and swiftness together, not being inferior to the horses of any other kingdom.

16. The minerals of the kingdom, of lead, iron, copper, and tin, especially, are of great value, and set many able-bodied subjects on work; it were great pity they should not be industriously followed.

17. But of all minerals, there is none like to that of fishing, upon the coasts of these kingdoms, and the seas belonging to them: our neighbours, within half a day's sail of us, with a good wind, can shew us the use and value thereof; and, doubtless, there

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is sea-room enough for both nations without offending one another; and it would exceedingly support the navy.

18. This realm is much enriched, of late years, by the trade of merchandise which the English drive in foreign parts; and, if it be wisely managed, it must of necessity very much increase the wealth thereof: care being taken, that the exportation exceed in value the importation: for then the balance of trade must of necessity be returned in coin or bullion.

19. This would easily be effected, if the merchants were persuaded or compelled to make their returns in solid commodities, and not too much thereof in vanity, tending to excess.

20. But especially care must be taken, that monopolies, which are the cankers of all trading, be not admitted under specious colours of public good.

21. To put all these into a regulation, if a constant commission to men of honesty and understanding were granted, and well pursued, to give order for the managing of these things, both at home and abroad, to the best advantage; and that this commission were subordinate to the council-board; it is conceived it would produce notable effects.

VII. The next thing is that of colonies and foreign plantations, which are very necessary, as outlets, to a populous nation, and may be profitable also if they be managed in a discreet way.

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1. First, in the choice of the place, which requireth many circumstances; as, the situation, near the sea, for the commodiousness of an intercourse with England; the temper of the air and climate, as may best agree with the bodies of the English, rather inclining to cold than heat; that it be stored with woods, mines, and fruits, which are naturally in the place; that the soil be such as will probably be fruitful for corn, and other conveniencies, and for breeding of cattle; that it hath rivers, both for passage between place and place, and for fishing also, if it may be; that the natives be not so many, but that there may be elbow-room enough for them, and for the adventives also: all which are likely to be found in the West-Indies.

2. It should be also such as is not already planted by the subjects of any Christian prince or state, nor over-nearly neighbouring to their plantation. And it would be more convenient, to be chosen by some of those gentlemen or merchants which move first in the work, than to be designed unto them from the king; for it must proceed from the option of the people, else it sounds like an exile; so the colonies must be raised by the leave of the king, and not by his command.

3. After the place is made choice of, the first step must be, to make choice of a fit governor; who although he have not the name, yet he must have the power of viceroy; and if the person who principally moved in the work be not fit for that trust, yet he must not be excluded from command; but then

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his defect in the governing part must be supplied by such assistants as shall be joined with him, or as he shall very well approve of.

4. As at their setting out they must have their commission or letters patents from the king, that so thay may acknowledge their dependency upon the crown of England, and under his protection; so they must receive some general instructions, how to dispose of themselves when they come there, which must be in nature of laws unto them.

5. But the general law, by which they must be guided and governed, must be the common law of England; and to that end, it will be fit that some man reasonably studied in the law, and otherwise qualified for such a purpose, be persuaded, if not thereunto inclined of himself, which were the best, to go thither as chancellor amongst them, at first; and when the plantation were more settled, then to have courts of justice there as in England.

6. At the first planting, or as soon after as they can, they must make themselves defensible both against the natives and against strangers; and to that purpose they must have the assistance of some able military man, and convenient arms and ammunition for their defence.

7. For the discipline of the Church in those parts, it will be necessary, that it agree with that which is settled in England, else it will make a schism and a rent in Christ's coat which must be seamless; and, to that purpose, it will be fit, that by the king's supreme power in causes ecclesiastical,

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within all his dominions; they be subordinate under some bishop and bishoprick of this realm.

8. For the better defence against a common enemy, I think it would be best, that foreign plantations should be placed in one continent, and near together; whereas, if they be too remote, the one from the other, they will be disunited, and so the weaker.

9. They must provide themselves of houses, such as for the present they can, and, at more leisure, such as may be better; and they first must plant for corn and cattle, &c. for food and necessary sustenance; and after, they may enlarge themselves for those things which may be for profit and pleasure, and to traffick withal also.

10. Woods for shipping, in the first place, may doubtless be there had, and minerals there found, perhaps, of the richest; howsoever, the mines out of the fruits of the earth, and seas and waters adjoining, may be found in abundance.

11. In a short time they may build vessels and ships also, for traffick with the parts near adjoining, and with England also, from whence they may be furnished with such things as they may want, and, in exchange or barter, send from thence other things, with which quickly, either by nature or art, they may abound.

12. But these things would by all means be prevented; that no known bankrupt, for shelter; nor known murderer or other wicked person, to avoid the law; nor known heretic or schismatic, be

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suffered to go into those countries; or, if they do creep in there, not to be harboured or continued: else, the place would receive them naught, and return them into England, upon all occasions, worse.

13. That no merchant, under colour of driving a trade thither or from thence, be suffered to work upon their necessities.

14. And that to regulate all these inconveniences, which will insensibly grow upon them, that the king be pleased to erect a subordinate council in England, whose care and charge shall be, to advise, and put in execution, all things which shall be found fit for the good of those new plantations; who, upon all occasions, shall give an account of their proceedings to the king, or to the council-board, and from them receive such directions as may best agree with the government of that place.

15. That the king's reasonable profit be not neglected, partly upon reservation of moderate rents and services; and partly upon customs; and partly upon importation and exportation of merchandise; which for a convenient time after the plantation begin, would be very easy, to encourage the work: but, after it is well settled, may be raised to a considerable proportion, worthy the acceptation.

[Yet these cautions are to be observed in these undertakings.

1. That no man be compelled to such an employment; for that were a banishment, and not a service fit for a free man.

2. That if any transplant themselves into plan-

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tations abroad, who are known schismatics, outlaws, or criminal persons, that they be sent for back upon the first notice; such persons are not fit to lay the foundation of a new colony.

3. To make no extirpation of the natives under pretence of planting religion: God surely will no way be pleased with such sacrifices.

4. That the peeple sent thither be governed according to the laws of this realm, whereof they are, and still must be subjects.

5. To establish there the same purity of religion, and the same discipline for Church government, without any mixture of popery or anabaptism, lest they should be drawn into factions and schisms, and that place receive them there bad, and send them back worse.

6. To employ them in profitable trades and manufactures, such as the clime will best fit, and such as may be useful to this kingdom, and return to them an exchange of things necessary.

7. That they be furnished and instructed for the military part, as they may defend themselves; lest, on a sudden, they be exposed as a prey to some other nation, when they have fitted the colony for them.

8. To order a trade thither, and thence, in such a manner as some few merchants and tradesmen, under colour of furnishing the colony with necessaries, may not grind them, so as shall always keep them in poverty.

9. To place over them such governors as may be qualified in such manner as may govern the place, and lay the foundation of a new kingdom.

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10. That care be taken, that when the industry of one man hath settled the work, a new man, by insinuation or misinformation, may not supplant him without a just cause, which is the discouragement of all faithful endeavours,

11. That the king will appoint commissioners in the nature of a council, who may superintend the works of this nature, and regulate what concerns the colonies, and give an account thereof to the king, or to his council of state.

Again, For matter of trade, I confess it is out of my profession; yet in that I shall make a conjecture also, and propound some things to you, whereby, if I am not much mistaken, you may advance the good of your country and profit of your master.

1. Let the foundation of a profitable trade be thus laid, that the exportation of home commodities be more in value than the importation of foreign; so we shall be sure that the stocks of the kingdom shall yearly increase, for then the balance of trade must be returned in money or bullion.

2. In the importation of foreign commodities, let not the merchant return toys and vanities, as sometimes it was elsewhere apes and peacocks, but solid merchandise, first for necessity, next for pleasure, but not for luxury.

3. Let the vanity of the times be restrained, which the neighbourhood of other nations have induced; and we strive apace to exceed our pattern; let vanity in apparel, and, which is more vain, that of

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the fashion, be avoided. I have heard, that in Spain, a grave nation, whom in this I wish we might imitate, they do allow the players and courtesans the vanity of rich and costly clothes; but to sober men and matrons they permit it not upon pain of infamy; a severer punishment upon ingenuous natures than a pecuniary mulct.

4. The excess of diet in costly meats and drinks fetched from beyond the seas would be avoided; wise men will do it without a law, I would there might be a law to restrain fools. The excess of wine costs the kingdom much, and returns nothing but surfeits and diseases; were we as wise as easily we might be, within a year or two at the most, if we would needs be drunk with wines, we might be drunk with half the cost.

5. If we must be vain and superfluous in laces and embroideries, which are more costly than either warm or comely, let the curiosity be the manufacture of the natives; then it should not be verified of us, "materiam superabat opus."

6. But instead of crying up all things, which are either brought from beyond sea, or wrought here by the hands of strangers, let us advance the native commodities of our own kingdom, and employ our countrymen before strangers; let us turn the wools of the land into clothes and stuffs of our own growth, and the hemp and flax growing here into linen cloth and cordage; it would set many thousand hands on work, and thereby one shilling worth of the ma-

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terials would by industry be multiplied to five, ten, and many times to twenty times more in the value being wrought.

7. And of all sorts of thrift for the public good, I would above all others commend to your care the encouragement to be given to husbandry, and the improving of lands for tillage; there is no such usury as this. The king cannot enlarge the bounds of these islands, which make up his empire, the ocean being the unremoveable wall which incloseth them; but he may enlarge and multiply the revenue thereof by this honest and harmless way of good husbandry.

8. A very great help unto trade are navigable rivers; they are so many indraughts to attain wealth; wherefore by art and industry let them be made; but let them not be turned to private profit.

9. In the last place, I beseech you, take into your serious consideration that Indian wealth, which this island and the seas thereof excel in, the hidden and rich treasure of fishing. Do we want an example to follow? I may truly say to the English, "Go to the pismire, thou sluggard." I need not expound the text: half a day's sail with a good wind, will shew the mineral and the miners.

10. To regulate all these it will be worthy the care of a subordinate council, to whom the ordering of these things may be committed, and they give an account thereof to the state.]

VIII. I COME to the last of those things which I propounded, which is, the court and curiality.

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The other did properly concern the king, in his royal capacity, as "pater patriæ;" this more properly as "pater-familias:" and herein,

1. I shall, in a word, and but in a word only, put you in mind, that the king in his own person, both in respect of his household or court, and in respect of his whole kingdom, for a little kingdom is but as a great household, and a great household as a little kingdom, must be exemplary, "Regis ad exemplum, &c." But for this, God be praised, our charge is easy; for our gracious master, for his learning and piety, justice and bounty, may be, and is, not only a precedent to his own subjects, but to foreign princes also; yet he is still but a man, and seasonable "mementos" may be useful; and, being discreetly used, cannot but take well with him.

2. But your greatest care must be, that the great men of his court, for you must give me leave to be plain with you, for so is your injunction laid upon me, yourself in the first place, who are first in the eye of all men, give no just cause of scandal; either by light, or vain, or by oppressive carriage.

3. The great officers of the king's household had need be both discreet and provident persons, both for his honour and for his thrift; they must look both ways, else they are but half-sighted: yet in the choice of them there is more latitude left to affection, than in the choice of counsellors, and of the great officers of state, before touched, which must always be made choice of merely out of judgment; for in them the public hath a great interest.

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[And yet in these, the choice had need be of honest and faithful servants, as well as of comely outsides, who can bow the knee, and kiss the hand, and perform other services, of small importance compared with this of public employment. King David, Psal. ci. 6, 7, propounded a rule to himself for the choice of his courtiers. He was a wise and a good king; and a wise and a good king shall do well to follow such a good example; and if he find any to be faulty, which perhaps cannot suddenly be discovered, let him take on him this resolution as king David did, "There shall no deceitful person dwell in my house." But for such as shall bear office in the king's house, and manage the expences thereof, it is much more requisite to make a good choice of such servants, both for his thrift and for his honour.]

4. For the other ministerial officers in court, as, for distinction sake, they may be termed, there must also be an eye unto them and upon them. They have usually risen in the household by degrees, and it is a noble way, to encourage faithful service: but the king must not bind himself to a necessity herein, for then it will be held "ex debito:" neither must he alter it, without an apparent cause for it: but to displace any who are in, upon displeasure, which for the most part happeneth upon the information of some great man, is by all means to be avoided, unless there be a manifest cause for it.

5. In these things you may sometimes interpose, to do just and good offices; but for the general, I

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should rather advise, meddle little, but leave the ordering of those household affairs to the white-staffs, which are those honourable persons, to whom it properly belongeth to be answerable to the king for it; and to those other officers of the green-cloth, who are subordinate to them, as a kind of council, and a court of justice also.

6. Yet for the green-cloth law, take it in the largest sense, I have no opinion of it, farther than it is regulated by the just rules of the common laws of England.

7. Towards the support of his majesty's own table, and of the prince's, and of his necessary officers, his majesty hath a good help by purveyance, which justly is due unto him; and, if justly used, is no great burden to the subject; but by the purveyors and other under-officers is many times abused. In many parts of the kingdom, I think, it is already reduced to a certainty in money; and if it be indifferently and discreetly managed, it would be no hard matter to settle it so throughout the whole kingdom; yet to be renewed from time to time: for that will be the best and safest, both for the king and people.

8. The king must be put in mind to preserve the revenues of his crown, both certain and casual, without diminution, and to lay up treasure in store against a time of extremity; empty coffers give an ill sound, and make the people many times forget their duty, thinking that the king must be beholden to them for his supplies.

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9. I shall by no means think it fit, that he reward any of his servants with the benefit of forfeitures, either by fines in the court of Star-chamber, or high commission courts, or other courts of justice, or that they should be farmed out, or bestowed upon any, so much as by promise, before judgment given; it would neither be profitable nor honourable.

10. Besides matters of serious consideration, in the courts of princes, there must be times for pastimes and disports: when there is a queen and ladies of honour attending her, there must sometimes be masques, and revels, and interludes; and when there is no queen, or princess, as now; yet at festivals, and for entertainment of strangers, or upon such occasions, they may be fit also: yet care would be taken, that in such cases they be set off more with wit and activity than with costly and wasteful expences.

11. But for the king and prince, and the lords and chivalry of the court, I rather commend, in their turns and seasons, the riding of the great horse, the tilts, the barriers, tennis, and hunting, which are more for the health and strength of those who exercise them, than in an effeminate way to please themselves and others.

And now the prince groweth up fast to be a man, and is of a sweet and excellent disposition; it would be an irreparable stain and dishonour upon you, having that access unto him, if you should mislead him, or suffer him to be misled by any loose or flattering parasites: the whole kingdom hath a deep interest



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in his virtuous education; and if you, keeping that distance which is fit, do humbly interpose yourself, in such a case he will one day give you thanks for it.

12. Yet dice and cards may sometimes be used for recreation, when field-sports cannot be had; but not to use it as a mean to spend the time, much less to mis-spend the thrift of the gamesters.

Sir, I shall trouble you no longer; I have run over these things as I first propounded them; please you to make use of them, or any of them, as you shall see occasion; or to lay them by, as you shall think best, and to add to them, as you daily may, out of your experience.

I must be bold, again, to put you in mind of your present condition; you are in the quality of a sentinel; if you sleep, or neglect your charge, you are an undone man, and you may fall much faster than you have risen.

I have but one thing more to mind you of, which nearly concerns yourself; you serve a great and gracious master, and there is a most hopeful young prince, whom you must not desert; it behoves you to carry yourself wisely and evenly between them both: adore not so the rising son, that you forget the father, who raised you to this height; nor be you so obsequious to the father, that you give just cause to the son to suspect that you neglect him: but carry yourself with that judgment, as, if it be possible, may please and content them both; which, truly, I believe, will be no hard matter

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for you to do: so may you live long beloved of both.

[If you find in these or any other your observations, which doubtless are much better than these loose collections, any thing which you would have either the father or the son to take to heart, an admonition from a dead author, or a caveat from an impartial pen, whose aim neither was nor can be taken to be at any particular by design, will prevail more and take better impression than a downright advice; which perhaps may be mistaken as if it were spoken magisterially.

Thus may you live long an happy instrument for your king and country; you shall not be a meteor or a blazing star, but "stella fixa:" happy here and more happy hereafter, "Deus manu sua te ducat:"] which is the hearty prayer of

Your most obliged and devoted Servant.

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# THE CHARGE OF SIR FRANCIS BACON, KNIGHT, THE KING'S ATTORNEY GENERAL, AGAINST WILLIAM TALBOT, A COUNSELLOR AT LAW, OF IRELAND,

UPON AN INFORMATION IN THE STAR-CHAMBER ORE TENUS, FOR A WRITING UNDER HIS HAND, WHEREBY THE SAID WILLIAM TALBOT BEING DEMANDED, WHETHER THE DOCTRINE OF SUAREZ, TOUCHING DEPOSING AND KILLING OF KINGS EXCOMMUNICATED, WERE TRUE OR NO? HE ANSWERED, THAT HE REFERRED HIMSELF UNTO THAT WHICH THE CATHOLIC ROMAN CHURCH SHOULD DETERMINE THEREOF.

ULTIMO DIE TERMINI HILARII, UNDECIMO JACOBI REGIS.

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My Lords,

I brought before you the first sitting of this term the cause of duels; but now this last sitting I shall bring before you a cause concerning the greatest duel which is in the Christian world, the duel and conflict between the lawful authority of sovereign kings, which is God's ordinance for the comfort of human society, and the swelling pride and usurpation of the see of Rome "in temporalibus," tending altogether to anarchy and confusion. Wherein if this pretence in the Pope of Rome, by cartels to make sovereign princes as the banditti, and to proscribe their lives, and to expose their kingdoms to prey; if these pretences, I say, and all persons that submit themselves to that part of the Pope's power in the least degree, be not by all possible severity repressed

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and punished, the state of Christian kings will be no other than the ancient torment described by the poets in the hell of the heathen; a man sitting richly robed, solemnly attended, delicious fare, &c. with a sword hanging over his head, hanging by a small thread, ready every moment to be cut down by an accursing and accursed hand. Surely I had thought they had been the prerogatives of God alone, and of his secret judgments: "Solvam cingula regum," I will loosen the girdles of Kings; or again, "He poureth contempt upon princes;" or, "I will give a king in my wrath, and take him away again in my displeasure;" and the like: but if these be the claims of a mortal man, certainly they are but the mysteries of that person which "exalts himself above all that is called God, supra omne quod dicitur Deus." Note it well, not above God, though that in a sense be true, but above all that is called God; that is, lawful kings and magistrates.

But, my lords, in this duel I find this Talbot, that is now before you, but a coward; for he hath given ground, he hath gone backward and forward; but in such a fashion, and with such interchange of repenting and relapsing, as I cannot tell whether it doth extenuate or aggravate his offence. If he shall more publicly in the face of the court fall and settle upon a right mind, I shall be glad of it; and he that would be against the king's mercy, I would he might need the king's mercy: but nevertheless the court will proceed by rules of justice.

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The offence therefore wherewith I charge this Talbot, prisoner at the bar, is this in brief and in effect: That he hath maintained, and maintaineth under his hand, a power in the Pope for deposing and murdering of kings. In what sort he doth this, when I come to the proper and particular charge, I will deliver it in his own words without pressing or straining.

But before I come to the particular charge of this man, I cannot proceed so coldly; but I must express unto your lordships the extreme and imminent danger wherein our dear and dread sovereign is, and in him we all; nay, all princes of both religions, for it is a common cause, do stand at this day, by the spreading and inforcing of this furious and pernicious opinion of the pope's temporal power: which though the modest sort would blanch with the distinction of "in ordine ad spiritualia," yet that is but an elusion; for he that maketh the distinction, will also make the case. This peril, though it be in itself notorious, yet because there is a kind of dulness, and almost a lethargy in this age, give me leave to set before you two glasses, such as certainly the like never met in one age; the glass of France, and the glass of England. In that of France the tragedies acted and executed in two immediate kings; in the glass of England, the same, or more horrible, attempted likewise in a queen and king immediate, but ending in a happy deliverance. In France, Henry III. in the face of his army, before the walls of Paris, stabbed by a wretched Jacobine friar,

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Henry IV. a prince that the French do surname the Great, one that had been a saviour and redeemer of his country from infinite calamities, and a restorer of that monarchy to the ancient state and splendor, and prince almost heroical, except it be in the point of revolt from religion, at a time when he was as it were to mount on horseback for the commanding of the greatest forces that of long time had been levied in France, this king likewise stilettoed by a rascal votary, which had been enchanted and conjured for the purpose.

In England, queen Elizabeth, of blessed memory, a queen comparable and to be ranked with the greatest kings, oftentimes attempted by like votaries, Sommervile, Parry, Savage, and others, but still protected by the watchman that slumbereth not. Again, our excellent sovereign king James, the sweetness and clemency of whose nature were enough to quench and mortify all malignity, and a king shielded and supported by posterity; yet this king in the chair of Majesty, his vine and olive branches about him, attended by his nobles and third estate in parliament; ready in the twinkling of an eye, as if it had been a particular dooms-day, to have been brought to ashes, dispersed to the four winds. I noted the last day, my lord chief justice, when he spake of this powder treason, he laboured for words; though they came from him with great efficacy, yet he truly confessed, and so must all men, that that treason is above the charge and report of any words whatsoever.

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Now, my lords, I cannot let pass, but in these glasses which I spake of, besides the facts themselves and danger, to shew you two things; the one, the ways of God Almighty, which turneth the sword of Rome upon the kings that are the vassals of Rome, and over them gives it power; but protecteth those kings which have not accepted the yoke of his tyranny, from the effects of his malice: the other, that, as I said at first, this is a common cause of princes; it involveth kings of both religions; and therefore his majesty did most worthily and prudently ring out the alarm-bell, to awake all other princes to think of it seriously, and in time. But this is a miserable case the while, that these Roman soldiers do either thrust the spear into the sides of God's anointed, or at least they crown them with thorns; that is, piercing and pricking cares and fears, that they can never be quiet or secure of their lives or states. And as this peril is common to princes of both religions, so princes of both religions have been likewise equally sensible of every injury that touched their temporals.

Thuanus reports in his story, that when the realm of France was interdicted by the violent proceedings of Pope Julius the second, the king, otherwise noted for a moderate prince, caused coins of gold to be stamped with his own image, and this superscription, "Perdam nomen Babylonis e terra." Of which Thuanus saith, himself had seen divers pieces thereof. So as this catholic king was so much incensed at that time, in respect of the pope's

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usurpation, as he did apply Babylon to Rome. Charles the fifth, emperor, who was accounted one of the pope's best sons, yet proceeded in matter temporal towards pope Clement with strange rigour: never regarding the pontificality, but kept him prisoner thirteen months in a pestilent prison; and was hardly dissuaded by his council from having sent him captive into Spain; and made sport with the threats of Frosberg the German, who wore a silk rope under his cassock, which he would shew in all companies; telling them that he carried it to strangle the pope with his own hands. As for Philip the fair, it is the ordinary example, how he brought pope Boniface the eighth to an ignominious end, dying mad and enraged; and how he stiled his rescript to the pope's bull, whereby he challenged his temporals, "Sciat fatuitas vestra," not your beatitude, but your stultitude; a stile worthy to be continued in the like cases; for certainly that claim is mere folly and fury. As for native examples, here it is too long a field to enter into them. Never kings of any nation kept the partition-wall between temporal and spiritual better in times of greatest superstition: I report me to king Edward I. that set up so many crosses, and yet crossed that part of the pope's jurisdiction, no man more strongly. But these things have passed better pens and speeches: here I end them.

But now to come to the particular charge of this man, I must inform your lordships the occasion and nature of this offence: There hath been published

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lately to the world a work of Suarez a Portuguese, a professor in the university of Coimbra, a confident and daring writer, such an one as Tully describes in derision; "nihil tam verens, quam ne dubitare aliqua de re videretur:" one that fears nothing but this, lest he should seem to doubt of any thing. A fellow that thinks with his magistrality and goose-quill to give laws and menages to crowns and sceptres. In this man's writing this doctrine of deposing or murdering kings seems to come to a higher elevation than heretofore; and it is more arted and positived than in others. For in the passages which your lordships shall hear read anon, I find three assertions which run not in the vulgar track, but are such as wherewith men's ears, as I suppose, are not much acquainted; whereof the first is, That the pope hath a superiority over kings, as subjects, to depose them; not only for spiritual crimes, as heresy and schism, but for faults of a temporal nature; forasmuch as a tyrannical government tendeth ever to the destruction of souls. So by this position, kings of either religion are alike comprehended, and none exempted. The second, that after a sentence given by the pope, this writer hath defined of a series, or succession, or substitution of hangmen, or "bourreaux," to be sure, lest an executioner should fail. For he saith, That when a king is sentenced by the pope to deprivation or death, the executioner, who is first in place, is he to whom the pope shall commit the authority, which may be a foreign prince, it may be a particular subject, it may

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be general, to the first undertaker. But if there be no direction or assignation in the sentence special or general, then, "de jure," it appertains to the next successor, a natural and pious opinion; for commonly they are sons, or brothers, or near of kin, all is one: so as the successor be apparent; and also that he be a catholic. But if he be doubtful, or that he be no catholic, then it devolves to the commonalty of the kingdom; so as he will be sure to have it done by one minister or other. The third is, he distinguisheth of two kinds of tyrants, a tyrant in title, and a tyrant in regiment; the tyrant in regiment cannot be resisted or killed without a sentence precedent by the pope; but a tyrant in title may be killed by any private man whatsoever. By which doctrine he hath put the judgment of king's titles, which I will undertake are never so clean but that some vain quarrel or exception may be made unto them, upon the fancy of every private man; and also couples the judgment and execution together, that he may judge him by a blow, without any other sentence.

Your lordships see what monstrous opinions these are, and how both these beasts, the beast with seven heads, and the beast with many heads, pope and people, are at once let in, and set upon the sacred persons of kings.

Now to go on with the narrative; there was an extract made of certain sentences and portions of this book, being of this nature that I have set forth, by a great prelate and counsellor, upon a just occasion; and there being some hollowness and hesitation

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in these matters, wherein it is a thing impious to doubt, discovered and perceived in Talbot; he was asked his opinion concerning these assertions, in the presence of the best; and afterwards they were delivered to him, that upon advice, and "sedato animo," he might declare himself. Whereupon, under his hand, he subscribes thus;

*May it please your honourable good lordships: Concerning this doctrine of Suarez, I do perceive, by what I have read in this book, that the same doth concern matter of faith, the controversy growing upon exposition of Scriptures and councils, wherein, being ignorant and not studied, I cannot take upon me to judge; but I do submit my opinion therein to the judgment of the catholic Roman church, as in all other points concerning faith I do. And for matter concerning my loyalty, I do acknowledge my Sovereign Liege Lord King James, to be lawful and undoubted King of all the kingdoms of England, Scotland, and Ireland; and I will bear true faith and allegiance to his Highness during my life.*

WILLIAM TALBOT.

My lords, upon these words I conceive Talbot hath committed a great offence, and such a one, as if he had entered into a voluntary and malicious publication of the like writing, it would have been too great an offence for the capacity of this court. But because it grew by a question asked by a council of estate, and so rather seemeth, in a favourable con-

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struction, to proceed from a kind of submission to answer, than from any malicious or insolent will; it was fit, according to the clemency of these times, to proceed in this manner before your lordships: and yet let the hearers take these things right; for certainly, if a man be required by the council to deliver his opinion whether king James be king or no? and he deliver his opinion that he is not, this is high treason: but I do not say that these words amount to that; and therefore let me open them truly to your lordships, and therein open also the understanding of the offender himself, how far they reach.

My lords, a man's allegiance must be independent and certain, and not dependent and conditional. Elizabeth Barton, that was called the holy maid of Kent, affirmed, that if king Henry VIII. did not take Catharine of Spain again to his wife within a twelvemonth, he should be no king: and this was treason. For though this act be contingent and future, yet the preparing of the treason is present.

And in like manner, if a man should voluntarily publish or maintain, that whensoever a bull of deprivation shall come forth against the king, that from thenceforth he is no longer king; this is of like nature. But with this I do not charge you neither; but this is the true latitude of your words, That if the doctrine touching the killing of kings be matter of faith, then you submit yourself to the judgment of the catholic Roman church: so as now, to do you right, your allegiance doth not depend simply upon a sentence of the pope's deprivation against the

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king; but upon another point also, if these doctrines be already, or shall be declared to be matter of faith. But, my lords, there is little won in this: there may be some difference to the guilt of the party, but there is little to the danger of the king. For the same pope of Rome may, with the same breath, declare both. So as still, upon the matter, the king is made but tenant at will of his life and kingdoms; and the allegiance of his subjects is pinned upon the pope's acts. And certainly, it is time to stop the current of this opinion of acknowledgment of the pope's power "in temporalibus;" or else it will sap and supplant the seat of kings. And let it not be mistaken, that Mr. Talbot's offence should be no more than the refusing the oath of allegiance. For it is one thing to be silent, and another thing to affirm. As for the point of matter of faith, or not of faith, to tell your lordships plain, it would astonish a man to see the gulf of this implied belief. Is nothing excepted from it? If a man should ask Mr. Talbot, Whether he do condemn murder, or adultery, or rape, or the doctrine of Mahomet, or of Arius, instead of Suarez? Must the answer be with this exception, that if the question concern matter of faith, as no question it doth, for the moral law is matter of faith, that therein he will submit himself to what the church shall determine? And, no doubt, the murder of princes is more than simple murder. But to conclude, Talbot, I will do you this right, and I will not be reserved in this, but to declare that, that is true; that you came afterwards to a

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better mind; wherein if you had been constant, the king, out of his great goodness, was resolved not to have proceeded with you in course of justice; but then again you started aside like a broken bow. So that by your variety and vacillation you lost the acceptable time of the first grace, which was not to have convented you.

Nay, I will go farther with you: your last submission I conceive to be satisfactory and complete; but then it was too late, the king's honour was upon it; it was published and a day appointed for hearing; yet what preparation that may be to the second grace of pardon, that I know not: but I know my lords, out of their accustomed favour, will admit you not only to your defence concerning that that hath been charged; but to extenuate your fault by any submission that now God shall put into your mind to make.

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